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# SOUTH CAROLINA STATE REGISTER

PUBLISHED BY  
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of the  
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ASHLEY HARWELL-BEACH, DIRECTOR  
DEIRDRE BREVARD SMITH, EDITOR  
REBECCA FUDGER TURNER, ASSOCIATE EDITOR

P.O. BOX 11489  
COLUMBIA, SC 29211  
TELEPHONE (803) 212-4500

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# ***SOUTH CAROLINA STATE REGISTER***

An official state publication, the *South Carolina State Register* is a temporary update to South Carolina’s official compilation of agency regulations--the *South Carolina Code of Regulations*. Changes in regulations, whether by adoption, amendment, repeal or emergency action must be published in the *State Register* pursuant to the provisions of the Administrative Procedures Act. The *State Register* also publishes the Governor’s Executive Orders, notices or public hearings and meetings, and other documents issued by state agencies considered to be in the public interest. All documents published in the *State Register* are drafted by state agencies and are published as submitted. Publication of any material in the *State Register* is the official notice of such information.

## **STYLE AND FORMAT**

Documents are arranged within each issue of the *State Register* according to the type of document filed:

**Notices** are documents considered by the agency to have general public interest.

**Notices of Drafting Regulations** give interested persons the opportunity to comment during the initial drafting period before regulations are submitted as proposed.

**Proposed Regulations** are those regulations pending permanent adoption by an agency.

**Pending Regulations Submitted to the General Assembly** are regulations adopted by the agency pending approval by the General Assembly.

**Final Regulations** have been permanently adopted by the agency and approved by the General Assembly.

**Emergency Regulations** have been adopted on an emergency basis by the agency.

**Executive Orders** are actions issued and taken by the Governor.

## **2024 PUBLICATION SCHEDULE**

Documents will be accepted for filing on any normal business day from 8:30 A.M. until 5:00 P.M. All documents must be submitted in the format prescribed in the *Standards Manual for Drafting and Filing Regulations*.

To be included for publication in the next issue of the *State Register*, documents will be accepted no later than 5:00 P.M. on any closing date. The modification or withdrawal of documents filed for publication must be made **by 5:00 P.M.** on the closing date for that issue.

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Submission Deadline	1/12	2/9	3/8	4/12	5/10	6/14	7/12	8/9	9/13	10/11	11/8	12/13
Publishing Date	1/26	2/23	3/22	4/26	5/24	6/28	7/26	8/23	9/27	10/25	11/22	12/27



## REPRODUCING OFFICIAL DOCUMENTS

Documents appearing in the *State Register* are prepared and printed at public expense. Media services are encouraged to give wide publicity to documents printed in the *State Register*.

## PUBLIC INSPECTION OF DOCUMENTS

Documents filed with the Office of the State Register are available for public inspection during normal office hours, 8:30 A.M. to 5:00 P.M., Monday through Friday. The Office of the State Register is in the Legislative Council, Fourth Floor, Rembert C. Dennis Building, 1000 Assembly Street, in Columbia. Telephone inquiries concerning material in the *State Register* or the *South Carolina Code of Regulations* may be made by calling (803) 212-4500.

## ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

To adopt, amend or repeal a regulation, an agency must publish in the *State Register* a Notice of Drafting; a Notice of the Proposed Regulation that contains an estimate of the proposed action's economic impact; and, a notice that gives the public an opportunity to comment on the proposal. If requested by twenty-five persons, a public hearing must be held at least thirty days after the date of publication of the notice in the *State Register*.

After the date of hearing, the regulation must be submitted to the General Assembly for approval. The General Assembly has one hundred twenty days to consider the regulation. If no legislation is introduced to disapprove or enacted to approve before the expiration of the one-hundred-twenty-day review period, the regulation is approved on the one hundred twentieth day and is effective upon publication in the *State Register*.

## EMERGENCY REGULATIONS

An emergency regulation may be promulgated by an agency if the agency finds imminent peril to public health, safety or welfare. Emergency regulations are effective upon filing for a ninety-day period. If the original filing began and expired during the legislative interim, the regulation can be renewed once.

## REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

Regulations promulgated to comply with federal law are exempt from General Assembly review. Following the notice of proposed regulation and hearing, regulations are submitted to the *State Register* and are effective upon publication.

## EFFECTIVE DATE OF REGULATIONS

**Final Regulations** take effect on the date of publication in the *State Register* unless otherwise noted within the text of the regulation.

**Emergency Regulations** take effect upon filing with the Legislative Council and remain effective for ninety days. If the original ninety-day period begins and expires during legislative interim, the regulation may be refiled for one additional ninety-day period.



## SUBSCRIPTIONS

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***South Carolina State Register***  
**Deirdre Brevard Smith, Editor**  
**P.O. Box 11489**  
**Columbia, SC 29211**  
**Telephone: (803) 212-4500**  
**Fax: (803) 212-4501**





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 South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>

<b>DOC. NO.</b>	<b>RAT. NO.</b>	<b>FINAL ISSUE</b>	<b>SUBJECT</b>	<b>EXP. DATE</b>	<b>AGENCY</b>	<b>HOUSE COMMITTEE</b>	<b>SENATE COMMITTEE</b>
5267			Article 6, Telecommunications Utilities	05/14/2025	Public Service Commission		
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5225			Retention and Storage of Election Records and Election Equipment	05/14/2025	State Election Commission		

## 2 EXECUTIVE ORDERS

### Executive Order No. 2024-17

**WHEREAS**, on August 4, 2024, the undersigned issued Executive Order No. 2024-16, declaring a State of Emergency due to the threats posed by Tropical Storm Debby, which subsequently made landfall along the coast of the State of Florida as a hurricane on August 5, 2024, before impacting the State of South Carolina and other areas in the southeastern region of the United States with strong winds and significant and sustained rainfall, as well as other severe weather conditions, including flash, urban, and river flooding; and

**WHEREAS**, on August 4, 2024, the undersigned also requested that the President of the United States declare that an emergency exists in the State of South Carolina pursuant to Section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5191–5193 (“Stafford Act”), and the President granted this request on August 5, 2024, for an incident period beginning on August 4, 2024, and continuing; and

**WHEREAS**, in addition to Tropical Storm Debby’s immediate, short-term impacts—which included strong winds, storm surge, numerous tornadoes, dangerous flash and urban flooding, and other hazardous weather conditions—the storm also produced historic rainfall across significant portions of the State of South Carolina, which now presents different and additional threats and warrants the State continuing to take any and all necessary and appropriate actions in proactively preparing for and promptly responding to the significant impacts associated with the same and in protecting and preserving property, critical infrastructure, communities, and the general safety and welfare of the people of this State; and

**WHEREAS**, the substantial and sustained rainfall associated with Tropical Storm Debby—which totaled over twelve (12) to eighteen (18) inches in certain areas of the State of South Carolina—saturated soils and caused significant river flooding, with numerous rivers in South Carolina remaining at flood-stage levels and additional flooding anticipated through next week as water flows downstream through the Waccamaw River, the Pee Dee River, and the Edisto River; and

**WHEREAS**, the aforementioned river flooding has necessitated evacuating residents from impacted areas, and evacuation operations are still ongoing in portions of the State as certain rivers are expected to remain in flood stage through at least August 23, 2024; and

**WHEREAS**, although local, state, and federal officials continue to conduct damage assessments, based on preliminary indicators, Tropical Storm Debby and corresponding and continuing hazardous conditions have damaged hundreds of homes and other private structures and required the closure of more than fifty (50) roads and bridges to date; and

**WHEREAS**, as the State continues to support county and local governments in facilitating or assisting with emergency response and recovery efforts and life-safety operations, the undersigned has been advised that it is necessary and appropriate to maintain activation of the South Carolina National Guard and other state emergency operations to support ongoing initiatives and to provide for the health, safety, and welfare of the public; and

**WHEREAS**, in light of the foregoing, and because the extraordinary circumstances and conditions that necessitated the undersigned’s prior emergency declaration have since evolved and now present different and additional threats that must be dealt with on their own terms, the undersigned has determined that it is necessary and appropriate for the State to take additional proactive action to facilitate current and future emergency management, response, recovery, and relief efforts in connection with the ongoing river flooding and other evolving impacts and hazardous conditions associated with Tropical Storm Debby; and

**WHEREAS**, as the elected Chief Executive of the State, the undersigned is authorized pursuant to section 25-1-440 of the South Carolina Code of Laws, as amended, to “declare a state of emergency for all or

part of the State if he finds a disaster . . . has occurred, or that the threat thereof is imminent and extraordinary measures are considered necessary to cope with the existing or anticipated situation”; and

**WHEREAS**, in accordance with section 25-1-440 of the South Carolina Code of Laws, when an emergency has been declared, the undersigned is “responsible for the safety, security, and welfare of the State and is empowered with [certain] additional authority to adequately discharge this responsibility,” to include issuing, amending, and rescinding “emergency proclamations and regulations,” which shall “have the force and effect of law as long as the emergency exists”; and

**WHEREAS**, pursuant to section 25-1-440 of the South Carolina Code of Laws, when an emergency has been declared, the undersigned is further authorized to “suspend provisions of existing regulations prescribing procedures for conduct of state business if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency”; and

**WHEREAS**, in addition to the foregoing, section 25-1-440 of the South Carolina Code of Laws authorizes the undersigned, during a declared emergency, to “transfer the direction, personnel, or functions of state departments, agencies, and commissions, or units thereof, for purposes of facilitating or performing emergency services as necessary or desirable,” and to “compel performance by elected and appointed state, county, and municipal officials and employees of the emergency duties and functions assigned them in the State Emergency Plan or by Executive Order”; and

**WHEREAS**, in accordance with section 56-5-70(A) of the South Carolina Code of Laws, as amended, during a declared emergency and in the course of responding to the emergency, requirements relating to registration, permitting, length, width, weight, and load are suspended for commercial and utility vehicles traveling on non-interstate routes for up to one hundred twenty (120) days, provided that such vehicles do not exceed a gross weight of ninety thousand (90,000) pounds and do not exceed a width of twelve (12) feet, and requirements relating to time of service suspensions for commercial and utility vehicles traveling on interstate and non-interstate routes are suspended for up to thirty (30) days, unless extended for additional periods pursuant to the Federal Motor Carrier Safety Regulations; and

**WHEREAS**, the Federal Motor Carrier Safety Regulations limit, *inter alia*, the hours of service for operators of commercial vehicles, 49 C.F.R. §§ 390 *et seq.*; and

**WHEREAS**, pursuant to 49 C.F.R. § 390.23, the governor of a State may suspend federal hours of service regulations for commercial vehicles responding to an emergency if the governor determines that an emergency condition exists; and

**WHEREAS**, section 56-5-70(B) of the South Carolina Code of Laws provides that “[w]hen an emergency is declared which triggers relief from regulations pursuant to 49 C.F.R. [§] 390.23 in North Carolina or Georgia, an emergency, as referenced in the regional emergency provision of 49 C.F.R. [§] 390.23(a)(1)(A), must be declared in this State by the Governor”; and

**WHEREAS**, on August 3, 2024, the Governor of Georgia issued an Executive Order declaring that an emergency existed in the State of Georgia in connection with Tropical Storm Debby and temporarily suspending certain motor vehicle and transportation regulations, and the Governor of Georgia subsequently issued Executive Orders on August 7, 2024, and August 14, 2024, which extended the duration of the emergency declaration and continued certain provisions thereof; and

**WHEREAS**, on August 5, 2024, the Governor of the State of North Carolina issued Executive Order No. 311, declaring an emergency for the State of North Carolina related to Tropical Storm Debby, with said emergency declaration remaining in effect for a period of thirty (30) days, and suspending certain motor vehicle and transportation regulations for a period of fourteen (14) days; and

## 4 EXECUTIVE ORDERS

**WHEREAS**, in light of the foregoing circumstances, the undersigned has determined that additional regulatory flexibility is warranted to assist proactively in facilitating and supporting the operation of critical utility and transportation services and mitigating or preventing interruptions and delays in transporting essential supplies, equipment, and persons to or from any impacted areas in the State of South Carolina or in connection with the declared emergencies in neighboring States; and

**WHEREAS**, for the aforementioned and other reasons, and in recognition and furtherance of the undersigned's responsibility to provide for and ensure the health, safety, security, and welfare of the people of the State of South Carolina, after conferring with the relevant state and federal agencies, officials, and experts, the undersigned has determined that the above-referenced river flooding and other ongoing and evolving circumstances associated with Tropical Storm Debby constitute an actual or imminent emergency for the State of South Carolina and that extraordinary measures are necessary to cope with the existing or anticipated situation.

**NOW, THEREFORE**, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and of these United States and the powers conferred upon me therein, I hereby declare that a State of Emergency exists in South Carolina. Accordingly, for the foregoing reasons and in accordance with the cited authorities and other applicable law, I further order and direct as follows:

### **Section 1. Emergency Measures to Address River Flooding and Additional Impacts Associated with Tropical Storm Debby**

A. I hereby activate the South Carolina Emergency Operations Plan ("Plan"), as approved by Executive Order No. 2023-11, and direct that the Plan be further placed into effect and that all prudent preparations be taken at the individual, local, and state levels to prepare for and respond to the aforementioned river flooding and other ongoing and additional threats and emergency circumstances related to, or resulting from, Tropical Storm Debby and the potential impacts associated with the same. I further direct the utilization of all available resources of state government as reasonably necessary to address the current State of Emergency. In accordance with Section 1(E) of Executive Order No. 2023-11, "[a]ll departments or agencies of the State shall execute, without delay, the emergency functions so designated in the Plan, or as further ordered or otherwise directed by the undersigned, during any emergency or disaster through the initial use of existing department or agency appropriations and all necessary department or agency personnel, regardless of normal duty assignment."

B. I hereby place specified units or personnel, or both, of the South Carolina National Guard on State Active Duty, pursuant to section 25-1-1840 of the South Carolina Code of Laws, as amended, and direct the Adjutant General to issue any supplemental orders he deems necessary and appropriate. I further order the activation of South Carolina National Guard personnel and the utilization of appropriate equipment, in the discretion of the Adjutant General and in coordination with the Director of the South Carolina Emergency Management Division ("EMD"), to take necessary and prudent actions to assist the people of this State. I authorize Dual Status Command, as necessary, to allow the Adjutant General or his designee to serve as commander over both federal (Title 10) and state forces (National Guard in Title 32 status or State Active Duty status, or both).

C. I hereby order that all licensing and registration requirements regarding private security personnel or companies contracting with South Carolina security companies in protecting property and restoring essential services in South Carolina shall be suspended, and I direct the South Carolina Law Enforcement Division ("SLED") to initiate an emergency registration process for those personnel or companies for a period specified, and in a manner deemed appropriate, by the Chief of SLED.

D. I hereby authorize and direct any agency within the undersigned's Cabinet or any other department within the Executive Branch, as defined by section 1-30-10 of the South Carolina Code of Laws, as

amended, through its respective director or secretary, to waive or “suspend provisions of existing regulations prescribing procedures for conduct of state business if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency,” in accordance with section 25-1-440 of the South Carolina Code of Laws and other applicable law.

E. I hereby authorize and direct state agencies and departments to utilize the emergency procurement procedures set forth in section 11-35-1570 of the South Carolina Code of Laws, as amended, and any regulations issued pursuant thereto, as necessary and appropriate, to facilitate and expedite the acquisition of any critical materials, resources, or services during the State of Emergency.

F. I hereby declare that the prohibitions against price gouging pursuant to section 39-5-145 of the South Carolina Code of Laws, as amended, are in effect and shall remain in effect for the duration of the State of Emergency.

G. I hereby waive the requirement of a written mutual aid agreement for law enforcement services authorized by the Law Enforcement Assistance and Support Act, codified as amended in Title 23, Chapter 20 of the South Carolina Code of Laws, during the State of Emergency in accordance with section 23-20-60 of the South Carolina Code of Laws, as amended.

H. I hereby authorize and direct state agencies and departments, including state-supported colleges, universities, and technical colleges, to follow county government closure determinations, consistent with the normal state procedure associated with hazardous weather conditions, for purposes of closing state government offices in any such counties or operating the same on an abbreviated schedule to ensure the safety of state employees and the general public. Emergency or other critical personnel designated and determined by, and in the sole discretion of, the corresponding Agency Head, or their designee, as essential or mission-critical to the State’s preparation for or response to emergency conditions cited and described herein or otherwise necessary to serve the State of South Carolina or to ensure the continuity of critical operations of state government, may still be required to report to work. State agencies and departments shall utilize, to the maximum extent possible, telecommuting or work-from-home options for non-essential employees. Notwithstanding the foregoing, pursuant to section 25-1-440 of the South Carolina Code of Laws, as well as other applicable law, I hereby prohibit any county, municipality, or other political subdivision of the State of South Carolina from restricting access by essential state employees to any location or facility that is occupied or utilized, in whole or in part, by any state agency or department. Accordingly, I hereby direct that any such county, municipality, or other political subdivision of the State shall authorize, allow, and provide access to said locations or facilities by any state agency or department, and the officials and employees thereof, as deemed necessary and appropriate and in the manner prescribed by the state agency or department so as to ensure the uninterrupted performance and provision of emergency, essential, or otherwise mission-critical government functions and services during the State of Emergency.

**Section 2. Transportation Waivers to Facilitate Emergency Management**

A. I hereby determine and declare that the existing and anticipated threats, circumstances, or conditions associated with the aforementioned river flooding and other ongoing and additional threats and emergency circumstances related to, or resulting from, Tropical Storm Debby, as further described herein, and the potential impacts related to the same constitute an emergency pursuant to 49 C.F.R. § 390.23 for purposes of suspending certain rules and regulations, as set forth below, for commercial vehicles and operators of commercial vehicles in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws.

B. I hereby authorize and direct the South Carolina Department of Transportation (“DOT”) and the South Carolina Department of Public Safety (“DPS”), including the State Transport Police, as needed, to waive or suspend application and enforcement of the requisite state and federal rules and regulations pertaining to hours of service for operators of commercial vehicles operating in accordance with the provisions of any



## 6 EXECUTIVE ORDERS

emergency declaration issued by the Federal Motor Carrier Safety Administration (“FMCSA”); responding or providing direct assistance, as defined by 49 C.F.R. § 390.5, to any emergency conditions in this State or any declared emergencies in the State of North Carolina or the State of Georgia or in other States in connection with the forecasted severe weather associated with the aforementioned river flooding and other ongoing and additional threats and emergency circumstances related to, or resulting from, Tropical Storm Debby or the anticipated impacts thereof; providing direct assistance to supplement state and local efforts and capabilities related to the same; or otherwise assisting with the existing or anticipated threats and circumstances identified and described herein, to include commercial vehicles and operators of commercial vehicles transporting equipment, materials, or persons necessary for the restoration of utility services or debris removal and those transporting essential goods and products, such as food, water, medicine, medical supplies and equipment, fuels and petroleum products (to include fuel oil, diesel oil, gasoline, kerosene, propane, liquid petroleum, and other refined petroleum products and related equipment or assets), livestock, poultry, feed for livestock and poultry, and crops and other agricultural products ready to be harvested (to include timber and wood chips).

C. I hereby authorize DOT and DPS, as applicable, to apply for or request any additional federal regulatory relief, waivers, permits, or other appropriate flexibility deemed necessary, whether pertaining to the transportation of overweight loads on interstate highways or otherwise, on behalf of the State of South Carolina and to promptly implement the same without the need for further Orders.

D. This Section shall not be construed to require or allow an ill or fatigued driver to operate a commercial motor vehicle. In accordance with 49 C.F.R. § 390.23, “a driver who informs the motor carrier that he or she needs immediate rest must be permitted at least ten (10) consecutive hours off duty before the driver is required to return to such terminal or location.” Likewise, this Section shall not be construed as an exemption from the applicable controlled substances and alcohol use and testing requirements in 49 C.F.R. § 382, the commercial driver’s license requirements in 49 C.F.R. § 383, or the financial responsibility requirements in 49 C.F.R. § 387, and it shall not be interpreted to relieve compliance with any other state or federal statute, rule, order, regulation, restriction, or other legal requirement not specifically waived, suspended, or addressed herein or addressed in any additional or supplemental guidance, rules, regulations, restrictions, or clarifications issued, provided, or promulgated by DOT or DPS.

E. Subject to any guidance, rules, regulations, restrictions, or clarification issued, provided, or promulgated, or which may be issued, provided, or promulgated, by DOT or DPS, as authorized herein or as otherwise provided by law, and notwithstanding the waiver or suspension of certain rules and regulations as set forth above, drivers in South Carolina are still subject to the following state requirements to ensure public safety:

1. Weight, height, length, and width for any such vehicle with a minimum of five (5) weight bearing axles on highways or roadways maintained by the State of South Carolina shall not exceed, for continuous travel on all non-interstates, United States, and South Carolina designated routes, maximum dimensions of twelve (12) feet in width (except as provided in Paragraph 5 below), thirteen (13) feet six (6) inches in height, and ninety thousand (90,000) pounds in gross weight.

2. Posted bridges may not be crossed.

3. All vehicles shall be operated in a safe manner, shall not damage the highways nor unduly interfere with highway traffic, shall maintain the required limits of insurance, and shall be clearly identified as a utility vehicle or shall provide appropriate documentation indicating they are responding to the emergency.

4. Except as provided below, any vehicles that exceed the above dimensions, weights, or both, must obtain a permit with defined routes from DOT’s Oversize/Overweight Permit (“OSOW”) Office. To order a permit, please call (803) 737-6769 during normal business hours, 8:30 a.m. – 5:00 p.m., or (803) 206-9566 after normal business hours.

5. In accordance with federal law, vehicles traveling on non-interstate routes within the National Network may not exceed a width of 102 inches or 8.6 feet without a special permit. A special permit for width on the National Network is available on DOT’s OSOW website, and a list of routes on the National Network is set forth in Appendix A to 23 C.F.R. Part 658.

6. Transporters are responsible for ensuring they have oversize signs, markings, flags, and escorts as required by the South Carolina Code of Laws and OSOW guidelines relating to oversize/overweight loads operating on South Carolina roadways.

F. I hereby authorize DOT and DPS to issue, provide, or promulgate any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application, implementation, or enforcement of this Section, or to otherwise provide clarification regarding the same, without the need for further Orders.

G. I hereby authorize and direct DPS, including the South Carolina Highway Patrol, as needed, to waive or suspend, in whole or in part, operation of the requisite rules and regulations, to include Regulation 38–600 of the South Carolina Code of Regulations, pertaining to the use of the South Carolina Highway Patrol Wrecker Rotation List.

H. This Section is effective immediately and shall remain in effect for thirty (30) days or the duration of the emergency, whichever is less, in accordance with 49 C.F.R. § 390.23 and section 56-5-70(D) of the South Carolina Code of Laws, except that requirements relating to registration, permitting, length, width, weight, and load are suspended for commercial and utility vehicles traveling on non-interstate routes for up to one hundred twenty (120) days, pursuant to the provisions of section 56-5-70 of the South Carolina Code of Laws, unless otherwise modified, amended, or rescinded by subsequent Order.

### **Section 3. General Provisions**

A. This Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of South Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any other person.

B. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Order is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this Order, as the undersigned would have issued this Order, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

C. This Order shall be implemented consistent with and to the maximum extent provided by applicable law and shall be subject to the availability of appropriations. This Order shall not be interpreted, applied, implemented, or construed in a manner so as to impair, impede, or otherwise affect the authority granted by law to an executive agency or department, or the officials or head thereof, including the undersigned.

D. I hereby expressly authorize the Office of the Governor to provide or issue any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application of this Order or to otherwise provide clarification regarding the same, through appropriate means, without the need for further Orders.

E. This Order is effective immediately and shall remain in effect for a period of fifteen (15) days unless otherwise expressly stated herein or modified, amended, or rescinded by subsequent Order. Further proclamations, orders, and directives deemed necessary to ensure the fullest possible protection of life and property during this State of Emergency shall be issued orally by the undersigned and thereafter reduced to writing and published for dissemination within the succeeding 24-hour period.

## 8 EXECUTIVE ORDERS

GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 18th DAY OF AUGUST, 2024.

HENRY DARGAN MCMASTER  
Governor

### Executive Order No. 2024-18

**WHEREAS**, on December 14, 2021, the undersigned issued Executive Order No. 2021-42, suspending Charles B. Lemon from the office of Sheriff of Marlboro County, pursuant to article VI, section 8 of the South Carolina Constitution, after a Grand Jury convened in Marlboro County returned two Indictments charging him with one count of Assault and Battery of a High and Aggravated Nature, in violation of section 16-3-600(B)(1) of the South Carolina Code of Laws, as amended, and one count of Misconduct in Office, in violation of the Common Law of South Carolina; and

**WHEREAS**, on or about January 24, 2024, a federal Grand Jury convened in the Florence Division of the United States District Court for the District of South Carolina returned an Indictment charging Charles B. Lemon with one count of Deprivation of Rights Under Color of Law, in violation of 18 U.S.C. § 242 and 18 U.S.C. § 2; and

**WHEREAS**, in light of the subsequent Indictment returned by a federal Grand Jury, and in accordance with article VI, section 8 of the South Carolina Constitution, on March 1, 2024, the undersigned issued Executive Order No. 2024-06, declaring that Charles B. Lemon “shall remain suspended until such time as he shall be formally acquitted with respect to all pending charges or convicted of one or more of the above-referenced charges, or all of the aforementioned indictments are otherwise disposed of, or until a sheriff is elected and qualifies in the next general election for county sheriffs, whichever occurs first”; and

**WHEREAS**, on March 5, 2024, the Office of the Attorney General dismissed the above-referenced Indictments filed in Marlboro County, with the accompanying notations reflecting dispositions of “nolle prosequi” leave to restore due to Federal Prosecution on same facts”; and

**WHEREAS**, under South Carolina law, “a *nolle prosequi* upon charges extinguishes the State’s prosecution upon those charges” and “treats charges *nol prossed* as if they never existed,” *Mackey v. State*, 357 S.C. 666, 669, 595 S.E.2d 241, 243 (2004); *see also Matter of Oxner*, 440 S.C. 5, 10 n.5, 889 S.E.2d 586, 589 n.5 (2023) (“[N]olle prosequi’ is not a term of art; it is simply an archaic way to describe a dismissal without prejudice.”); and

**WHEREAS**, on August 19, 2024, following a trial before the United States District Court for the District of South Carolina on the Indictment charging Charles B. Lemon with one count of Deprivation of Rights Under Color of Law, in violation of 18 U.S.C. § 242 and 18 U.S.C. § 2, the Jury returned a verdict of Not Guilty, *see Verdict Form, United States v. Lemon*, No. 4:24-CR-00068-JD (D.S.C. Aug. 19, 2024), ECF No. 104; and

**WHEREAS**, for the foregoing reasons, and in accordance with the cited authorities and other applicable law, the undersigned is required to rescind the previous suspension of Charles B. Lemon from the office of Sheriff of Marlboro County.

**NOW, THEREFORE**, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby rescind the suspension set forth in Executive Order Nos. 2024-06 and 2021-42 and reinstate Charles B. Lemon as Sheriff of Marlboro County. This Order is effective immediately.

GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 21st DAY OF AUGUST, 2024.

HENRY DARGAN MCMASTER  
Governor

**Executive Order No. 2024-19**

**WHEREAS**, on August 4, 2024, the undersigned issued Executive Order No. 2024-16, declaring a State of Emergency due to the threats posed by Tropical Storm Debby, which subsequently made landfall along the coast of the State of Florida as a hurricane on August 5, 2024, before impacting the State of South Carolina and other areas in the southeastern region of the United States with strong winds and significant and sustained rainfall, as well as other severe weather conditions, including flash, urban, and river flooding; and

**WHEREAS**, due to the aforementioned State of Emergency and the forecasted hazardous weather conditions and resulting impacts associated with Tropical Storm Debby, and in accordance with the directive set forth in Section 1(H) of Executive Order No. 2024-16 for state government offices to follow county government closure determinations, state government offices in numerous counties throughout the State were closed or operated on an abbreviated schedule on one or more days during the period from August 5, 2024, through August 9, 2024, to ensure the safety of state employees and the general public; and

**WHEREAS**, section 8-11-57 of the South Carolina Code of Laws, as amended, provides, in pertinent part, that “whenever the Governor declares a state of emergency or orders all or some state offices closed due to hazardous weather conditions he may authorize up to five days leave with pay for affected state employees who are absent from work due to the state of emergency or the hazardous weather conditions.”

**NOW, THEREFORE**, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby order and direct as follows:

**Section 1. Authorizing Leave with Pay Due to Tropical Storm Debby**

A. I hereby authorize leave with pay for affected state employees, as set forth below, who were absent from work during the State of Emergency and due to the aforementioned hazardous weather conditions, and in accordance with the directive set forth in Section 1(H) of Executive Order No. 2024-16 for state government offices to follow county government closure determinations, in the following counties and on the following dates:

**August 5, 2024:**

Abbreviated Schedule: Charleston County (closed at 3:00 p.m.)

**August 6, 2024:**

Closed: Allendale County, Barnwell County, Beaufort County, Charleston County, Colleton County, Dorchester County, Florence County, Hampton County, Jasper County, Orangeburg County, Williamsburg County

Abbreviated Schedule: Bamberg County (closed at 1:00 p.m.), Berkeley County (closed at 12:00 p.m.), Marlboro County (closed at 12:00 p.m.)

**August 7, 2024:**

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Closed: Allendale County, Bamberg County, Barnwell County, Beaufort County, Berkeley County, Calhoun County, Charleston County, Clarendon County, Colleton County, Darlington County, Dorchester County, Florence County, Hampton County, Jasper County, Marion County, Marlboro County, Orangeburg County, Williamsburg County

Abbreviated Schedule: Dillon County (closed at 12:00 p.m.), Georgetown County (closed at 2:00 p.m.)

### **August 8, 2024:**

Closed: Calhoun County, Charleston County, Clarendon County, Colleton County, Dillon County, Dorchester County, Florence County, Horry County, Lee County, Marion County, Marlboro County, Richland County, Sumter County, Williamsburg County

Abbreviated Schedule: Bamberg County (opened at 1:00 p.m.), Fairfield County (opened at 10:00 a.m.), Georgetown County (opened at 10:00 a.m.), Orangeburg County (opened at 12:00 p.m.)

### **August 9, 2024:**

Closed: Berkeley County, Dorchester County, Marion County, Marlboro County

Abbreviated Schedule: Dillon County (opened at 11:00 a.m.)

B. In the event that county government offices in a county not listed above were closed or operated on an abbreviated schedule during the State of Emergency and due to the aforementioned hazardous weather conditions, I hereby authorize the South Carolina Department of Administration to grant leave with pay for affected state employees who were absent from work as a result of the corresponding closure of state government offices and to administratively add any such county to the list of covered closures without the need for further Orders.

## **Section 2. General Provisions**

A. This Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of South Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any other person.

B. This Order shall be implemented consistent with and to the maximum extent provided by applicable law and shall be subject to the availability of appropriations. This Order shall not be interpreted, applied, implemented, or construed in a manner so as to impair, impede, or otherwise affect the authority granted by law to an executive agency or department, or the officials or head thereof, including the undersigned.

C. This Order is effective immediately.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 23rd DAY OF AUGUST, 2024.**

**HENRY DARGAN MCMASTER  
Governor**

**Executive Order No. 2024-20**

**WHEREAS**, the undersigned has been notified of the passing of Officer First Class Mark Reynolds of the South Carolina State Transport Police, who dutifully served as a law enforcement officer in this State and died in the line of duty; and

**WHEREAS**, Officer Reynolds dedicated his life to protecting and serving the people of the State of South Carolina, both as a law enforcement officer and previously as a firefighter, and his loss warrants the people of this State appropriately recognizing his distinguished service and honoring his supreme sacrifice; and

**WHEREAS**, Title 4, Section 7(m) of the United States Code, as amended, provides that “[i]n the event of . . . the death of a first responder working in any State, territory, or possession who dies while serving in the line of duty, the Governor of that State, territory, or possession may proclaim that the National flag shall be flown at half-staff”; and

**WHEREAS**, section 1-3-470 of the South Carolina Code of Laws, as amended, authorizes the undersigned, on the day of burial or other service for any law enforcement officer in this State who died in the line of duty, to order that all flags on state buildings be lowered to half-staff in tribute to the deceased law enforcement officer and to request that flags over the buildings of the political subdivisions of this State similarly be flown at half-staff for this purpose.

**NOW, THEREFORE**, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and of these United States and the powers conferred upon me therein, I hereby order that all flags on state buildings be lowered to half-staff from sunrise until sunset on Sunday, September 8, 2024, in tribute to Officer Reynolds and in honor of his selfless service and supreme sacrifice in the line of duty. I request that all flags over the buildings of the political subdivisions of this State similarly be flown at half-staff for this purpose. This Order is effective immediately.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 6th DAY OF SEPTEMBER, 2024.**

**HENRY DARGAN MCMASTER  
Governor**

**Executive Order No. 2024-21**

**WHEREAS**, the undersigned has been notified that there presently exists a vacancy on Kershaw County Council, in the office and at-large seat of the Chairperson, due to the resignation of Katie Guinn; and

**WHEREAS**, pursuant to section 4-9-90 of the South Carolina Code of Laws, as amended, vacancies occurring on the governing body of a county are generally “filled in the manner of original election for the unexpired terms in the next general election after the vacancy occurs or by special election if the vacancy occurs one hundred eighty days or more prior to the next general election”; and

**WHEREAS**, a special election for the aforementioned office is scheduled to be held on November 5, 2024, in accordance with section 7-13-190(B)(2) of the South Carolina Code of Laws, as amended, which provides that for special elections to fill a vacancy in office, “[t]he special election must be on the twentieth Tuesday after the vacancy occurs”; however, “[i]f the twentieth Tuesday after the vacancy occurs is no more than sixty days prior to the general election, the special election must be held on the same day as the general election”; and

## 12 EXECUTIVE ORDERS

**WHEREAS**, the Kershaw County Board of Elections and Voter Registration has confirmed that J. Benjamin Connell, who prevailed in a primary election conducted on August 6, 2024, is presently unopposed in the aforementioned special election for the office and at-large seat of the Chairperson of Kershaw County Council; and

**WHEREAS**, absent prior action by the undersigned, a vacancy will remain in the office and at-large seat of the Chairperson of Kershaw County Council such that the residents thereof will be without representation in said office pending the results of the November 5, 2024 special election, which is now uncontested, and qualification of a successor to serve for the remainder of the unexpired term; and

**WHEREAS**, in the event of a vacancy in a county office, the undersigned is authorized, pursuant to sections 1-3-220(2) and 4-11-20(1) of the South Carolina Code of Laws, as amended, to appoint a suitable person, who shall be an elector of the county, to serve in such office until a successor shall qualify as provided by law; and

**WHEREAS**, by letter dated September 11, 2024, J. Benjamin Connell tendered his resignation as a member of the South Carolina House of Representatives, effective September 13, 2024; and

**WHEREAS**, for the aforementioned reasons, and in accordance with the cited authorities and other applicable law, the undersigned has determined that it is appropriate under the circumstances presented to appoint a suitable person to serve as the Chairperson of Kershaw County Council until a successor shall qualify as provided by law, *see Op. Att’y Gen.*, 1996 WL 599395, at \*1 (S.C.A.G. Sept. 9, 1996); *see also Bradford v. Byrnes*, 221 S.C. 255, 262, 70 S.E.2d 228, 231 (1952) (“As nature abhors a void, the law of government does not ordinarily countenance an *interregnum*.”); and

**WHEREAS**, J. Benjamin Connell, of Lugoff, South Carolina, is a fit and proper person to serve as the Chairperson of Kershaw County Council.

**NOW, THEREFORE**, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby appoint J. Benjamin Connell to serve as the Chairperson of Kershaw County Council, effective September 14, 2024, until a successor shall qualify as provided by law. This Order is effective immediately.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 12th DAY OF SEPTEMBER, 2024.**

**HENRY DARGAN MCMASTER**  
Governor

**DEPARTMENT OF ADMINISTRATION  
DIVISION OF STATE HUMAN RESOURCES**

**NOTICE OF GENERAL PUBLIC INTEREST**

**2024 Amendments to the Division of State Human Resources Regulations**

**Instructions:**

Replace R.19-700 through R.19-720.04 as shown below.

**Text:**

**19-700. DEFINITIONS**

The following definitions should be used in conjunction with these Regulations.

**ACADEMIC PERSONNEL** – presidents, provosts, vice-presidents, deans, teaching and research staffs, and others of academic rank employed by the State educational institutions of higher learning or medical institutions of education and research as defined in Section 59-107-10 of the South Carolina Code of Laws.

**AGENCY** – a department, institution of higher learning, board, commission, or school that is a governmental unit of the State of South Carolina. Special purpose districts, political subdivisions, and other units of local government are excluded from this definition.

**AGENCY HEAD** – the person who has authority and responsibility for an agency.

**AGENCY HIRE DATE** – the date an employee begins employment with an agency without any adjustments.

**APPEAL** – the request by a covered employee to the State Human Resources Director for review of an agency's final decision concerning a grievance.

**APPOINTING AUTHORITY** – the agency head or other person or group of persons empowered to employ.

**BASE PAY** – the rate of pay approved for an employee in his position exclusive of any additional pay, such as supplements, bonuses, longevity pay, temporary salary adjustments, shift differential pay, on-call pay, call back pay, special assignment pay, or market or geographic differential pay.

**BASE PERIOD** – the period of time that defines the regular annual schedule of employment (e.g., either a semester, an academic year, or ten months to 12 months).

**BREAK IN SERVICE** – An employee experiences a break in State service when the employee either (1) separates from State employment; (2) moves from one State agency to another and is not employed by the receiving agency within 15 calendar days following the last day worked (or approved day of leave at the transferring agency); (3) remains on leave for a period of more than 12 months; (4) separates from State service as a result of a reduction in force and is not recalled to the original position or reinstated with State government within 12 months of the effective date of the separation; or (5) moves from a full-time equivalent (FTE) position to a temporary, temporary grant, or time-limited position.

**CALENDAR DAYS** – the sequential days of a year. For purposes of calculating time frames under the State Employee Grievance Procedure Act, the time must be computed by excluding the first day and including the last. If the last day falls on a Saturday, Sunday, or holiday, it must be excluded.



## 14 NOTICES

**CALENDAR YEAR** – the period of time between January 1st and December 31st in any given year.

**CLASS** – a group of positions sufficiently similar in the duties performed; degree of supervision exercised or received; minimum requirements of education or experience; and the knowledge, skills, and abilities required that the Division of State Human Resources applies the same State class title and the same State salary range to each position in the group.

**CLASS/UNCLASSIFIED STATE TITLE CODE** – the alphanumeric identification assigned to a particular class or unclassified State title.

**CLASSIFIED POSITION** – an FTE position that has been assigned to a class.

**CLASSIFICATION PLAN** – the classification plan as authorized by Section 8-11-230 which includes the non-Higher Education classification plan and the Higher Education classification plan authorized by the Higher Education Efficiency and Administrative Policies Act of 2011.

**CLASSIFIED SERVICE** – all of those positions in State service which are subject to the classification plan.

**CLASS SERIES** – a group of classes which are sufficiently similar in kind of work performed to warrant similar class titles, but sufficiently different in level of responsibilities to warrant different pay bands.

**CLASS SPECIFICATION** – the official description approved by the Division of State Human Resources providing examples of the kind of work and level of responsibility normally assigned to positions that may be allocated to the class.

**CLASS TITLE** – the name assigned to a class by the Division of State Human Resources.

**CLASS/UNCLASSIFIED STATE TITLE DATE** – the date an employee enters his current class or unclassified State title.

**COMPENSATION** – monetary payment for services rendered.

**CONFLICT OF INTEREST** – any action or situation in which an individual’s personal or financial interest or that of a member of his household might conflict with the public interest.

**CONTINUOUS STATE SERVICE** – service in a Full Time Equivalent position with one or more State agencies without a break in service.

**CONTINUOUS STATE SERVICE DATE** – the date that reflects the first date of State employment in a Full Time Equivalent position without a break in service.

**COVERED EMPLOYEE** – a full-time or part-time employee occupying a part or all of an FTE position who has completed the probationary period and has a “meets” or higher overall rating on the employee’s performance evaluation and who has grievance rights. Instructional personnel are covered upon the completion of one academic year except for faculty at State technical colleges upon the completion of not more than two full academic years’ duration. If an employee does not receive an evaluation before the performance review date, the employee must be considered to have performed in a satisfactory manner and be a covered employee. This definition does not include employees in positions such as temporary, temporary grant, or time-limited employees who do not have grievance rights.

**DEMOTION** – the assignment of an employee by the appointing authority from one established position to a different established position having a lower State salary range or, for employees in positions without a State

salary range, assignment of a lower rate of pay to the employee except when the employee's job duties also are decreased for nonpunitive reasons.

**DIVISION OF STATE HUMAN RESOURCES (DSHR)** – the central State human resources entity under the Department of Administration.

**DUAL EMPLOYMENT** – an agreement by which an employee within an FTE position with an employing agency accepts temporary, part-time employment with the same or another agency which constitutes independent, additional duties distinct from the employee's primary duties.

**EMPLOYEE** – any person in the service of an agency who receives compensation from the agency and where the agency has the right to control and direct the employee in how the work is performed.

**EMPLOYING AGENCY** – the agency having primary control over the services of the employee.

**EXEMPT EMPLOYEE** – an employee who is exempt from both the minimum wage and overtime requirements of the Fair Labor Standards Act due to employment in a bona fide executive, administrative, professional, or outside sales capacity.

**FISCAL YEAR** – the period of time between July 1st and June 30th of any given year.

**FULL-TIME EQUIVALENT or FTE** – a numerical value expressing a percentage of time in hours and of funds related to a particular position authorized by the General Assembly.

**GRIEVANCE** – a complaint filed by a covered employee or the employee's representative regarding an adverse employment action taken by an agency designated in Section 8-17-330 of the South Carolina Code of Laws.

**HOLIDAY** – any holiday recognized by State law or enumerated in Section 53-510 of the South Carolina Code of Laws.

**HOLIDAY COMPENSATORY TIME** – leave time earned by an employee for work performed on a holiday.

**IN-BAND INCREASE** – a salary increase which is awarded within the pay band assigned to the employee's class.

**INITIAL EMPLOYMENT** – the employment of a person newly hired into State government in a classified or unclassified FTE position.

**INSTRUCTIONAL PERSONNEL** – for purposes of the State Employee Grievance Procedure Act, employees of an agency that has primarily an educational mission, excluding the State technical colleges and excluding those employees exempted in Section 8-17-370 10 of the South Carolina Code of Laws, who work an academic year.

**INVOLUNTARY REASSIGNMENT** – the movement of an employee's principal place of employment in excess of 30 miles from the prior workstation at the initiative of the agency. The reassignment of an employee by an agency in excess of 30 miles from the prior workstation to the nearest facility with an available position having the same State salary range for which the employee is qualified is not considered involuntary reassignment.

**LEAVE ACCRUAL DATE** – the date used to calculate an employee's rate of annual leave earnings, which includes: (1) all State service in an FTE position, including part-time service, adjusted to reflect periods where there was a break in service; and, (2) all service as a certified employee in a permanent position of a school district of this State.

## 16 NOTICES

**LEAVE DONOR** – an employee of an employing agency whose voluntary written request for donation of sick or annual leave to the pool leave account of his employing agency is granted.

**LEAVE RECIPIENT** – an employee of an employing agency who has a medical emergency and is selected and approved to receive sick or annual leave from the pool leave account of his employing agency.

**LEGISLATIVE INCREASE** – General and Merit Increases provided to employees in accordance with the provisions of the Annual Appropriations Act.

**MEDIATION** – an alternative dispute resolution process whereby a mediator who is an impartial third-party acts to encourage and facilitate the resolution of a dispute without prescribing what it should be. The process is informal and non-adversarial with the objective of helping the disputing parties reach a mutually acceptable agreement.

**MEDIATION-ARBITRATION** – an alternative dispute resolution process that provides for the submission of an appeal to a mediator-arbitrator, an impartial third party who conducts conferences to attempt to resolve the grievance by mediation and render a decision that is final and binding on the parties if the appeal is not mediated.

**NONEXEMPT EMPLOYEE** – an employee who is covered by the Fair Labor Standards Act and who is, therefore, subject to both the minimum wage and overtime requirements of the law.

**PAY BAND** – for classified positions, the dollar amount between the minimum and maximum rates of pay to which a class is assigned by DSHR.

**PERFORMANCE REVIEW DATE** – the first day which marks the beginning of a new performance review period.

**PERMANENT STATUS** – the status attained by an employee upon completion of a probationary or trial period in a class or an unclassified State title.

**PERSONNEL NUMBER (PERNR)** – the employee identification number

**PERSONAL EMERGENCY** – a catastrophic and debilitating medical situation, severely complicated disability, severe accident case, family medical emergency, or other hardship situation that is likely to require an employee's absence from duty for a prolonged period of time and to result in a substantial loss of income to the employee because of the unavailability of paid leave.

**POSITION** – those duties and responsibilities constituting a single job.

**POSITION NUMBER** – a unique number assigned to an FTE position by DSHR.

**PROBATIONARY STATUS** – the status of an employee during the probationary period.

**PROBATIONARY EMPLOYEE** – a full-time or part-time employee occupying a part or all of an FTE position in the initial working test period of employment with the State of 12 months' duration for non-instructional personnel, of the academic year duration for instructional personnel except for those at State technical colleges, or of not more than 2 full academic years' duration for faculty at State technical colleges. An employee who receives an unsatisfactory performance evaluation during the probationary period must be terminated before becoming a covered employee.

**PROBATIONARY PERIOD** – an initial working test period of employment in an FTE position with the State of not more than 12 months' duration for non-instructional personnel or the academic year duration for instructional personnel except for those at State technical colleges, or of not more than 2 full academic years'

duration for faculty at State technical colleges. An employee who receives an unsatisfactory performance evaluation during the probationary period must be terminated before becoming a covered employee.

**PROMOTION** – the assignment of an employee by the appointing authority from one established position to a different established position having a higher State salary range or, for positions without a State salary range, having a higher rate of pay. Failure to be selected for a promotion is not an adverse employment action that can be considered as a grievance or appeal.

**PUNITIVE RECLASSIFICATION** – for classified employees, the assignment of a position in one class to a different class with a lower pay band with the sole purpose to penalize the covered employee.

**REALLOCATION** – for classified positions, the assignment of all positions in a class from one pay band to another pay band.

**REASSIGNMENT** – the movement within an agency of an employee from one position to another position having the same State salary range, or the movement of a position within an agency which does not require reclassification.

**RECLASSIFICATION** – for classified positions, the assignment of a position in one class to another class which is the result of a natural or an organizational change in duties or responsibilities of the position.

**REDUCTION IN FORCE** – the procedure used by an agency to eliminate or reduce a portion of one or more filled FTE positions in one or more organizational units within the agency due to budgetary limitations, shortage of work, organizational changes or outsourcing/privatization.

**REEMPLOYMENT** – the employment of a person following a break in service in an FTE position.

**REINSTATEMENT** – the return of an employee to State service without a break in service. Examples include return resulting from: (1) the Reduction in Force procedure; (2) the reversal of a termination under the State Employee Grievance Procedure Act; (3) the settlement of a complaint negotiated under an authorized administrative agency; or, (4) the order of a court.

**REQUESTING AGENCY** – for dual employment purposes, the agency engaging the services of and compensating any employee for services which are clearly not a part of the employee's regular job.

**RESIGNATION** – written or oral notification by an employee of his relinquishment of employment. An employee who fails to report to work for three consecutive workdays and fails to contact the agency during this time period is considered to have voluntarily resigned.

**SEPARATION** – action initiated by either the agency or employee which ends the employment relationship.

**SHIFT DIFFERENTIAL** – the additional amount of pay awarded to employees who are assigned to an evening, night, weekend, rotating, or split-shift.

**STATE EMPLOYEE GRIEVANCE COMMITTEE** – the committee composed of State employees who are appointed by the Director of the Department of Administration and who conduct hearings involving appeals filed by covered employees.

**STATE HIRE DATE** – the first date of State employment in an FTE position adjusted to reflect periods when there were breaks in service.

## 18 NOTICES

**STATE HUMAN RESOURCES DIRECTOR** – the head of the Division of State Human Resources of the Department of Administration, or his designee who is responsible for statewide coordination of human resources programs.

**STATE SALARY RANGE** – the dollar amount between the minimum and maximum rates of pay as established by DSHR.

**STATE SERVICE** – total employment defined in years, months, and days in which an employee has occupied an FTE position, including part-time service.

**SUPERVISOR** – an individual who directs one or more subordinates and is designated as the rater on those subordinates' performance evaluations.

**SUPPLEMENT** – any compensation, excluding travel reimbursement, from an affiliated public charity, foundation, clinical faculty practice plan, or other public source or any supplement from a private source to the salary appropriated for a State employee and fixed by the State.

**SUSPENSION** – an enforced leave of absence without pay pending investigation of charges against an employee or for disciplinary purposes.

**TEACHERS** – individuals employed in instructional positions for which certification is required.

**TEMPORARY EMPLOYEE** – a full-time or part-time employee who does not occupy an FTE position, whose employment is not to exceed one year, and who is not a covered employee.

**TEMPORARY GRANT EMPLOYEE** – a full-time or part-time employee who does not occupy an FTE position and is hired to fill a position specified in and funded by a federal grant, public charity grant, private foundation grant, or research grant and who is not a covered employee.

**TEMPORARY POSITION** – a full-time or part-time non-FTE position created for a period of time not to exceed one year.

**TEMPORARY SALARY ADJUSTMENT** – compensation not included in an employee's base salary that is awarded for a limited period of time.

**TERMINATION** – The action taken by an agency against an employee to involuntarily separate the employee from employment.

**TIME-LIMITED PROJECT EMPLOYEE** – a full-time or part-time employee who does not occupy an FTE position who is hired to fill a position with time-limited project funding approved or authorized by the appropriate State authority, and who is not a covered employee.

**TRANSFER** – the movement to a different agency of an employee from one position to another position having the same State salary range, or the movement of a position from one agency to another agency which does not require reclassification.

**TRIAL PERIOD** – the initial working test period of six months required of a covered employee upon movement to any class or an unclassified State title in which the employee has not held permanent status. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period.

**TRIAL STATUS** – the status of a full-time or part-time covered employee who is in the initial working test period of six months following the movement of the employee or the employee's position to any class or

unclassified State title in which the employee has not held permanent status. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period.

**UNCLASSIFIED POSITION** – an FTE position that has been assigned to an unclassified State title.

**UNCLASSIFIED SERVICE** – all those positions in the State service which are not subject to the position classification plan.

**UNCLASSIFIED STATE TITLE** – the name assigned to an unclassified position or to a group of similar positions by the DSHR.

**WORKDAY (AVERAGE)** – the number of hours upon which leave and holidays are based. To determine the number of hours in an average workday, divide the total number of hours an employee is regularly scheduled to work during a week by five (regardless of the number of days the employee actually reports to work).

## **19-701. GENERAL RULES**

### **SCOPE AND PURPOSE**

Human Resources Regulations Sections 19-700 through 19-721 are applicable to all agencies that are not specifically exempted by Section 8-11-260 of the South Carolina Code of Laws. These regulations apply to FTE positions and employees who occupy FTE positions.

#### **19-701.01. EQUAL EMPLOYMENT OPPORTUNITY**

The State of South Carolina is an equal employment opportunity employer.

#### **19-701.02. CONSTRUCTION OF WORDS**

All words in these Regulations referencing the masculine gender shall apply to females as well. All words in these Regulations referencing "written," "in writing," or similar language shall also apply to electronic documents.

#### **19-701.03. FEDERAL, STATE, AND LOCAL LAWS**

These Regulations are in addition to the requirements of applicable federal, State, and local laws as applicable.

#### **19.701.04. DIVISION OF STATE HUMAN RESOURCES' DELEGATION AUTHORITY/RESERVATION OF RIGHTS**

The Division of State Human Resources may delegate to agencies and higher education institutions the authority to implement specific compensation and classification actions. This ability is outlined in a Memorandum of Understanding (MOU) executed between DSHR and the agency or institution. In addition to adhering to the terms of the MOU, the agencies and institutions with delegation authority shall comply with all State and Federal laws and all DSHR regulations, policies, and guidelines. DSHR reserves the right to revoke and /or alter the agencies' or institutions' delegation authority.

#### **19-701.05. AUDITS BY THE DIVISION OF STATE HUMAN RESOURCES (DSHR)**

All information and documentation required by these Regulations are subject to audit by DSHR.

#### **19-701.06. CENTRAL HUMAN RESOURCES DATA SYSTEM**

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As required by Section 8-11-230 of the South Carolina Code of Laws, DSHR provides a central database to maintain human resources data on all employees. To maintain the integrity and completeness of the system, all agencies are required to submit information in a timely manner.

### **19-701.07. ETHICS ACT**

The Ethics Act governs the employment of family members and conflicts of interest. For additional information consult the Ethics Act (Section 8-13-100 through Section 8-13-1520 of the South Carolina Code of Laws), the Ethics Commission opinions, and the State Ethics Commission.

### **19-701.08. EMPLOYMENT OUTSIDE OF STATE GOVERNMENT**

Agencies may adopt policies and procedures for the approval and regulation of jobs held by employees outside of State government. Such policies shall be in accordance with law and the policies and procedures of the Department of Administration. An agency may withdraw approval for such secondary employment in accordance with policies and procedures.

### **19-701.09. SOLICITATION AND DISTRIBUTION**

Solicitations and distributions by agency employees or outside individuals are generally prohibited on agency property during working hours. Each agency is responsible for enforcing this Regulation to minimize the disruption of agency business. For example, agencies may allow for fund raising activities by charitable organizations which are certified by the Secretary of State. Any fund-raising activities must be approved by the agency head or his designee and conducted under agency supervision.

### **19-701.10. PILOT PROGRAMS TO CREATE INNOVATION IN STATE GOVERNMENT**

Notwithstanding other provisions of law, the Department of Administration is authorized to enter into pilot programs with individual agencies or groups of agencies in order to create innovations in State government. The Department of Administration will monitor the findings and results of pilot programs to determine if legislative recommendations should be provided to the General Assembly.

### **19-701.11. FTE POSITIONS**

An employee may not occupy more than one FTE position.

### **19-701.12. APPROVAL OF POLICIES**

The Division of State Human Resources develops six model policies to assist agencies with their policy development. The Division of State Human Resources must review and approve these six policies, and the agency must distribute to employees prior to the policies becoming effective. The six model policies are:

- A. Hours of Work and Overtime policy,
- B. Employee Performance Management System policy,
- C. Progressive Discipline policy,
- D. Grievance Procedure policy,
- E. Reduction in Force policy, and
- F. Telecommuting policy.

**19-702. CLASSIFICATION PLAN****SCOPE AND PURPOSE**

This Regulation governs the establishment, maintenance, and administration of the Classification Plan as defined in 19-700 applicable to all FTE positions in the classified service.

**19-702.01. STATEMENTS OF POLICY**

A. The Department of Administration designates the State Human Resources Director to administer all Department of Administration policies and procedures relating to the Classification Plan.

B. The Division of State Human Resources shall establish the Classification Plan to consist of:

1. all approved classes of positions,
2. the assignment of each position to its proper class,
3. the class specifications for all approved classes of positions, and
4. the Regulations and procedures governing the administration of the Classification Plan.

C. A class shall be established for each broad category of work and its level of difficulty and responsibility.

D. Each class shall be defined by a class specification and shall be assigned to an appropriate pay band.

E. The Division of State Human Resources will maintain a list of approved classes.

F. No action shall be taken to fill any position until it has been authorized by the General Assembly and established in accordance with the Classification Plan. When establishing a classified position, DSHR assigns a position number, class title, class code, and pay band.

G. A position may move between the classified and unclassified systems provided the agency does not exceed its respective number of classified and unclassified authorized full-time equivalent (FTE) positions. (*Refer to Section 19-704.08.*)

H. The Division of State Human Resources is authorized to delegate to agencies by written agreement classification programs that are described in this Regulation. Agencies with a delegation agreement shall comply with all State and federal laws and regulations, Department of Administration policies and guidelines, and the provisions contained in the delegation agreement. The delegation agreement shall constitute a contractual relationship between DSHR and the requesting agency and may be terminated or altered at the discretion of DSHR.

I. The State Human Resources Director shall have the authority to make exceptions to these Regulations consistent with federal, State and local laws.

**19-702.02. ADMINISTRATION OF THE PLAN**

A. The State Human Resources Director shall administer the Classification Plan.

B. Before an agency fills or alters a position, DSHR must approve the following actions:

1. The initial classification of the position;



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2. The reclassification of the position; or

3. The creation of new classes and the revision or abolishment of existing classes.

C. The Division of State Human Resources shall coordinate periodic studies to ensure that the Classification Plan is current and uniform.

D. As requested, agencies must submit to DSHR all current position descriptions, organizational charts, and other information as needed to administer the classification plan.

### 19-702.03. CLASS SPECIFICATIONS

A. Each class specification shall describe in general terms examples of the kind of work and level of responsibility normally assigned to positions that may be allocated to the class. The exact duties and responsibilities of positions allocated to any one class may differ; however, all positions allocated to a class shall be sufficiently similar as to kind of work, level of difficulty or responsibility, and qualification requirements.

B. The Division of State Human Resources shall develop class specifications which include the following:

1. Class Title and Code

2. General Nature of Work - the brief statement summarizing the work to be performed by individuals in this class.

3. Guidelines for Class Use/Distinguishing Characteristics - the brief statement summarizing the level of work performed, the breadth of job responsibilities, and level of supervision given or received. This section may be omitted if it is not needed for further clarification.

4. Examples of Work - statements of duties that reflect responsibility common to positions in the class, but not necessarily fully descriptive of any one position in the class.

5. Knowledge, Skills and Abilities - a list of individual characteristics each of which is required for the successful performance of one or more job duties of the class, but not necessarily fully descriptive of the requirements for any one position in the class.

6. Necessary Special Requirements - statements of professional or physical requirements, such as licensure or certification, which may be mandatory for some or all positions in the class. This section may be omitted if it is not needed for further clarification.

7. Minimum Requirements - a statement of the minimum combination of education and experience required for the satisfactory performance of the duties of positions in the class, but not necessarily fully descriptive of the education and experience required for any one position in the class. For an equivalency to substitute for the minimum requirements, an agency must submit a written request to the State Human Resources Director for approval.

C. Current class specifications shall be maintained by DSHR. The Division of State Human Resources will notify agencies of any revisions and additions to the class specifications.

### 19-702.04. POSITION DESCRIPTIONS

A. The Division of State Human Resources shall develop a position description to be used by agencies in describing assigned duties and other information necessary to determine the proper classification of each

position. An agency may develop a position description which must be approved by DSHR prior to implementation.

B. The position description shall serve as a record of the duties assigned to an individual position in a class. The position description is used to compare positions to ensure uniformity of classification and as a basis for other human resources decisions.

C. The position description shall include an accurate description of assigned duties and responsibilities and other pertinent information concerning a position. In contrast to general definitions of the level of work and responsibilities, the position description shall include specific duties and responsibilities assigned to a position, the percentage of time normally devoted to each duty, and the designation of essential and marginal functions.

D. Position descriptions should be updated to reflect any changes in the assigned job duties and responsibilities or any other pertinent information concerning the position. The supervisor should discuss this updated position description with the employee.

E. Agencies shall submit current position descriptions to DSHR. Current position descriptions shall be maintained by both the agency and DSHR.

#### **19-702.05. RECLASSIFICATION OF POSITIONS**

A. An established position may be reclassified from one class to a different class as a result of a natural or an organizational change in the duties or responsibilities of the position.

B. When reclassifying a filled position, the assignment of new duties or responsibilities should not have the effect of creating a new position.

C. The Division of State Human Resources shall approve all reclassifications.

#### **19-702.06. POSITION NUMBERING SYSTEM**

The Division of State Human Resources shall develop and maintain a position numbering system that will identify each established position.

#### **19-703. JOB VACANCY ANNOUNCEMENTS**

##### **SCOPE AND PURPOSE**

This Regulation governs the announcement of vacancies for all FTE positions in the classified service.

##### **19-703.01. STATEMENTS OF POLICY**

A. The Department of Administration designates DSHR to administer all policies and procedures relating to the South Carolina Code of Laws, Section 8-11-120, Report of Job Vacancies.

B. Applicants selected for hiring must meet the minimum requirements of the class as established by DSHR unless the State Human Resources Director or designee has approved an equivalency.

##### **19-703.02. REPORT OF JOB VACANCIES**

A. In addition to any other requirement provided by law, when a job vacancy occurs in any state office, agency, department, or other division of the executive branch of state government, the appointing authority must post a notice with the DSHR of the Department of Administration and the South Carolina Department of

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Employment and Workforce for at least five working days before employing a person to fill the vacancy. The posting must give notice of the job vacancy, describe the duties to be performed by a person employed in that position, and include any other information required by law.

B. The notification of a vacancy must include the following data:

1. The title of the position and a summary description of the job responsibilities for the vacant position if needed for clarification;

2. The entry salary or State salary range for the vacant position;

3. The name of the agency where the vacant position exists;

4. A description of the application process for the vacant position;

5. Residency requirements, if any, for the vacant position;

6. The class code and the position number of the vacant position;

7. The minimum requirements for the vacant position, as well as preferred qualifications, if any:

a. For the purpose of reporting a job vacancy, minimum requirements are the minimum training and experience requirements that are established by the agency for the vacant position. An agency's minimum training and experience requirements shall be either the minimum requirements that DSHR has established for the class or additional requirements established by the agency that are directly related to the successful performance of essential job responsibilities as described on the position description. Any additional requirements must exceed the minimum requirements that DSHR has established for the class.

b. Preferred qualifications are defined as any other qualifications that are desirable, but not mandatory, for the performance of essential job responsibilities upon entry into the position;

8. The opening and closing dates for applying for the vacant position;

9. A statement certifying that the employing agency is an equal employment opportunity/affirmative action employing agency; and

10. The normal work schedule and whether the position is full-time or part-time.

### 19-703.03. INTERNAL POSTING AND DISTRIBUTION OF ANNOUNCEMENTS

The agency must notify employees where the vacancy exists. If the vacancy is a promotional opportunity that requires work experience within the agency to qualify for the promotion, notice of the vacancy must be posted for five workdays, and the notice does not have to be sent to the South Carolina Department of Employment and Workforce or to DSHR.

### 19-703.04. EXEMPTIONS TO POSTING JOB ANNOUNCEMENTS

A. If an emergency situation exists requiring the vacancy to be filled immediately, certification of the emergency must be made to and approved by the agency head or his designee waiving the posting requirement at the agency and State level.

B. When an agency promotes an employee one organizational level above the employee's current level, the posting requirement may be waived.

C. When an agency reassigns an employee from one position to another position in the same band, the posting requirement may be waived.

D. When an agency demotes an employee, the posting requirement may be waived.

#### **19-703.05. FREEDOM OF INFORMATION ACT REQUESTS**

Upon request, a public body must provide materials, regardless of the form, pertaining to at least the three final applicants for consideration of each position. Finalist refers to the last group of applicants, with at least three members, from which the final selection is made. A public body should not disclose the tax returns, medical records, social security numbers or any other materials exempt from disclosure under the SC Code of Laws Section 30-4-40 of the final pool of applicants, comprising at least three applicants. Upon request, a public body must disclose the number of applicants considered for that position.

#### **19-704. MOVEMENT AND STATUS**

##### **SCOPE AND PURPOSE**

This Regulation governs the movement of classified and unclassified employees in FTE positions. This Regulation also governs the status of classified and unclassified employees in FTE positions except those employees exempt from coverage under the State Employee Grievance Procedure Act.

##### **19-704.01. STATEMENTS OF POLICY**

A. Movement of a person into or between full-time equivalent (FTE) positions may occur by:

1. Initial Employment or Reemployment
2. Promotion
3. Demotion
4. Reassignment
5. Transfer

*(Refer to Sections 19-704.02 through 19-704.05.)*

B. Movement of a position may occur through a reclassification in the classified system or an unclassified State title change in the unclassified system. *(Refer to Sections 19-704.06 and 19-704.07.)*

C. A position may move between the classified and unclassified systems provided the agency does not exceed its number of classified and unclassified authorized FTEs. *(Refer to Section 19-704.08.)*

D. A person who moves into or between an FTE position(s) in the classified system must meet minimum requirements established in the class specification. For an equivalency to substitute for the minimum requirements, an agency must submit a written request to the State Human Resources Director for approval.

E. When a person moves into or between an FTE position(s) or when an employee's position is reclassified or has an unclassified State title change, the following types of status apply:

1. Probationary – The status of a full-time or part-time employee occupying all or part of an FTE position in the initial working test period of employment with the State of:

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- a. Twelve months' duration for noninstructional personnel;
- b. The academic year duration for instructional personnel (teachers); or
- c. Not more than two full academic years' duration for faculty at State technical colleges.

2. Covered – The status of a full-time or part-time employee occupying all or part of an FTE position who has completed the probationary period and has a “meets” or higher overall rating on the employee’s performance evaluation and has grievance rights. If an employee does not receive an evaluation before the performance review date, the employee must be considered to have performed in a satisfactory manner and be a covered employee.

3. Trial – The status of a full-time or part-time covered employee who is in the initial working test period of six months following the movement of the employee or the employee’s position to any class or unclassified State title in which the employee has not held permanent status. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period.

### F. Permanent Status in a Class or Unclassified State Title

An employee shall attain permanent status in a class or unclassified State title upon completion of a probationary or trial period in that class or unclassified State title. Once attained, permanent status in a class or unclassified State title is retained throughout the employee’s continuous State service. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period.

### G. Performance Review Dates

For the establishment of an employee’s performance review date, refer to Sections 19-715.02 through 19-715.04.

## 19-704.02. INITIAL EMPLOYMENT OR REEMPLOYMENT

A. Initial employment is defined as the employment of a person newly hired into State government in a classified or unclassified FTE position to include movement from a temporary, time limited, or temporary grant position to an FTE position.

B. Reemployment is defined as the employment of a person following a break in service in a classified or unclassified FTE position.

### C. Probationary Status

Upon initial employment or reemployment the employee shall be in probationary status.

### D. Probationary Period

1. An employee in probationary status must complete a probationary period of:
  - a. Twelve months' duration for noninstructional personnel;
  - b. The academic year duration for instructional personnel (teachers); or
  - c. Not more than two full academic years' duration for faculty at State technical colleges.

2. At his discretion, the agency head or his designee may count up to six months of continuous satisfactory service in any temporary capacity toward the employee's probationary period which would result in a reduction in the length of the employee's performance review period.

3. An employee who performs unsatisfactorily during the probationary period must be terminated before becoming a covered employee.

### **19-704.03. PROMOTION**

A. Promotion is defined as the assignment of an employee by the appointing authority from one established position to a different established position:

1. Having a higher State salary range; or
2. For positions without a State salary range, having a higher rate of pay.

B. Probationary or Trial Status

Upon promotion, an employee shall be in probationary or trial status; however, if a covered employee previously held permanent status in the class or unclassified State title to which promoted, the promotion shall be with permanent status in the class or unclassified State title and the employee is not in trial status. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period.

C. Probationary Period

1. An employee in probationary status who is promoted must complete a probationary period of:
  - a. Twelve months' duration for noninstructional personnel;
  - b. The academic year duration for instructional personnel (teachers); or
  - c. Not more than two full academic years' duration for faculty at State technical colleges.

2. At his discretion, the agency head or his designee may count up to six months of continuous satisfactory service in the previous class or unclassified State title toward the employee's probationary period which would result in a reduction in the length of the employee's performance review period.

3. An employee who performs unsatisfactorily during the probationary period must be terminated before becoming a covered employee.

D. Trial Period

A covered employee who is promoted to a position in which he has not held permanent status in the class or unclassified State title must complete a six-month trial period. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period. This period may be extended up to 90 calendar days upon written notification to the employee of the extension prior to the end of the six-month trial period.

### **19-704.04. DEMOTION**

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A. Demotion is defined as the assignment of an employee by the appointing authority from one established position to a different established position:

1. Having a lower State salary range; or

2. For employees in positions without a State salary range, assignment of a lower rate of pay to the employee except when the employee's job duties also are decreased for nonpunitive reasons.

### B. Probationary or Trial Status

Upon demotion, an employee will be in probationary or trial status; however, if a covered employee previously held permanent status in the class or unclassified State title to which demoted, the demotion shall be with permanent status in the class or unclassified State title and the employee is not in probationary or trial status. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period.

### C. Probationary Period

1. An employee in probationary status who is demoted must complete a probationary period of:

a. Twelve months' duration for noninstructional personnel;

b. The academic year duration for instructional personnel (teachers); or

c. Not more than two full academic years' duration for faculty at State technical colleges.

2. At his discretion, the agency head or his designee may count up to six months of continuous satisfactory service in the previous class or unclassified State title toward the employee's probationary period which would result in a reduction in the length of the employee's performance review period.

3. An employee who performs unsatisfactorily during the probationary period must be terminated before becoming a covered employee.

### D. Trial Period

A covered employee who is demoted to a position in which he has not held permanent status in the class or unclassified State title must complete a six-month trial period. This period may be extended up to 90 calendar days upon written notification to the employee of the extension prior to the end of the six-month trial period. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period.

## 19-704.05. REASSIGNMENT AND TRANSFER

A. Reassignment is defined as the movement within an agency of an employee from one position to another position having the same State salary range, or the movement of a position within an agency which does not require reclassification.

B. Transfer is defined as the movement to a different agency of an employee from one position to another position having the same State salary range, or the movement of a position from one agency to another agency which does not require reclassification.

### C. Probationary or Trial Status

Upon reassignment or transfer, an employee shall be in probationary or trial status; however, a covered employee with permanent status in the class or unclassified State title is not in probationary or trial status when the reassignment or transfer:

1. Does not change the employee's class or unclassified State title; or
2. Is to a class or unclassified State title in which the employee already holds permanent status in the class or unclassified State title.

Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period.

#### D. Probationary Period

1. An employee in probationary status who is reassigned or transferred must complete a probationary period of:

- a. Twelve months' duration for noninstructional personnel;
- b. The academic year duration for instructional personnel (teachers); or
- c. Not more than two full academic years' duration for faculty at State technical colleges.

2. At his discretion, the agency head or his designee may count up to six months of continuous satisfactory service in the previous class or unclassified State title toward the employee's probationary period which would result in a reduction in the length of the employee's performance review period. If the reassignment or transfer is not to a new class or unclassified State title, the employee's probationary period shall not change.

3. An employee who performs unsatisfactorily during the probationary period must be terminated before becoming a covered employee.

#### E. Trial Period

A covered employee who is reassigned or transferred to a position in which he has not held permanent status in the class or unclassified State title must complete a six-month trial period. This period may be extended by the agency head up to 90 calendar days upon written notification to the employee of the extension prior to the end of the six-month trial period. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period.

### 19-704.06. RECLASSIFICATION

For classified positions, reclassification is defined as the assignment of a position in one class to another class which is the result of a natural or an organizational change in duties or responsibilities of the position. Reclassifications can occur:

A. Upward – The position moves from one class to another class having a higher State salary range.

#### 1. Probationary or Trial Status

Upon upward reclassification, an employee shall be in probationary or trial status; however, if a covered employee previously held permanent status in the class to which reclassified, the upward reclassification shall be with permanent status in the class and the employee is not in trial status. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period.



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### 2. Probationary Period

a. An employee in probationary status whose position is reclassified upward must complete a probationary period of:

- (1) Twelve months' duration for noninstructional personnel;
- (2) The academic year duration for instructional personnel (teachers); or
- (3) Not more than two full academic years' duration for faculty at State technical colleges.

b. At his discretion, the agency head or his designee may count up to six months of continuous satisfactory service in the previous class toward the employee's probationary period which would result in a reduction in the length of the employee's performance review period.

c. An employee who performs unsatisfactorily during the probationary period must be terminated before becoming a covered employee.

### 3. Trial Period

A covered employee who is reclassified upward to a position in which he has not held permanent status in the class must complete a six-month trial period. This period may be extended up to 90 calendar days upon written notification to the employee of the extension prior to the end of the six-month trial period. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period.

B. Downward – The position moves from one class to another class having a lower State salary range.

#### 1. Probationary or Trial Status

Upon downward reclassification, an employee will be in probationary or trial status; however, if a covered employee previously held permanent status in the class to which reclassified, the downward reclassification shall be with permanent status in the class and the employee is not in trial status. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period.

#### 2. Probationary Period

a. An employee in probationary status whose position is reclassified downward must complete a probationary period of:

- (1) Twelve months' duration for noninstructional personnel;
- (2) The academic year duration for instructional personnel (teachers); or
- (3) Not more than two full academic years' duration for faculty at State technical colleges.

b. At his discretion, the agency head or his designee may count up to six months of continuous satisfactory service in the previous class toward the employee's probationary period which would result in a reduction in the length of the employee's performance review period.

c. An employee who performs unsatisfactorily during the probationary period must be terminated before becoming a covered employee.

### 3. Trial Period

A covered employee who is reclassified downward to a position in which he has not held permanent status in the class must complete a six-month trial period. This period may be extended up to 90 calendar days upon written notification to the employee of the extension prior to the end of the six-month trial period. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period.

C. Lateral – The position moves from one class to another class having the same State salary range.

#### 1. Probationary or Trial Status

Upon lateral reclassification, an employee shall be in probationary or trial status; however, if a covered employee previously held permanent status in the class to which reclassified, the lateral reclassification shall be with permanent status in the class and the employee is not in trial status. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period.

#### 2. Probationary Period

a. An employee in probationary status whose position is reclassified laterally must complete a probationary period of:

- (1) Twelve months' duration for noninstructional personnel;
- (2) The academic year duration for instructional personnel (teachers); or
- (3) Not more than two full academic years' duration for faculty at State technical colleges.

b. At his discretion the agency head or his designee may count up to six months of continuous satisfactory service in the previous class toward the employee's probationary period which would result in a reduction in the length of the employee's performance review period.

c. An employee who performs unsatisfactorily during the probationary period must be terminated before becoming a covered employee.

### 3. Trial Period

A covered employee who is reclassified laterally to a position in which he has not held permanent status in the class must complete a six-month trial period. This period may be extended up to 90 calendar days upon written notification to the employee of the extension prior to the end of the six-month trial period. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period.

## **19-704.07. UNCLASSIFIED STATE TITLE CHANGES**

An unclassified State title change is defined as the assignment of a position in one unclassified State title to another unclassified State title which is the result of a natural or an organizational change in duties or responsibilities of the position. An unclassified State title change can occur:

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A. Upward – The position moves from one unclassified State title to another unclassified State title having a higher State salary range or for a position without a State salary range, the position moves from one unclassified State title to another unclassified State title with higher level job duties or responsibilities as defined by the agency.

### 1. Probationary or Trial Status

Upon upward unclassified State title change, an employee shall be in probationary or trial status; however, if a covered employee previously held permanent status in the unclassified State title to which moved, the upward move shall be with permanent status in the unclassified State title and the employee is not in trial status. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period.

### 2. Probationary Period

a. An employee in probationary status whose position is moved upward must complete a probationary period of:

- (1) Twelve months' duration for noninstructional personnel;
- (2) The academic year duration for instructional personnel (teachers); or
- (3) Not more than two full academic years' duration for faculty at State technical colleges.

b. At his discretion, the agency head or his designee may count up to six months of continuous satisfactory service in the previous unclassified State title toward the probationary period which would result in a reduction in the length of the employee's performance review period.

c. An employee who performs unsatisfactorily during the probationary period must be terminated before becoming a covered employee.

### 3. Trial Period

A covered employee whose position is moved upward to an unclassified State title in which he has not held permanent status must complete a six-month trial period. This period may be extended up to 90 calendar days upon written notification to the employee of the extension prior to the end of the six-month trial period. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period.

B. Downward – The position moves from one unclassified State title to another unclassified State title having a lower State salary range or for a position without a State salary range, the position moves from one unclassified State title to another unclassified State title with lower level job duties or responsibilities as defined by the agency.

### 1. Probationary or Trial Status

Upon downward unclassified State title change, an employee will be in probationary or trial status; however, if a covered employee previously held permanent status in the unclassified State title to which moved, the downward move shall be with permanent status in the unclassified State title and the employee is not in trial status. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period.

### 2. Probationary Period

a. An employee in probationary status whose position is moved downward must complete a probationary period of:

- (1) Twelve months' duration for noninstructional personnel;
- (2) The academic year duration for instructional personnel (teachers); or
- (3) Not more than two full academic years' duration for faculty at State technical colleges.

b. At his discretion, the agency head or his designee may count up to six months of continuous satisfactory service in the previous unclassified State title toward the probationary period which would result in a reduction in the length of the employee's performance review period.

c. An employee who performs unsatisfactorily during the probationary period must be terminated before becoming a covered employee.

### 3. Trial Period

A covered employee whose position is moved downward to an unclassified State title in which he has not held permanent status must complete a six-month trial period. This period may be extended up to 90 calendar days upon written notification to the employee of the extension prior to the end of the six-month trial period. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period.

C. Lateral – The position moves from one unclassified State title to another unclassified State title having the same State salary range or an equivalent level of job duties or responsibilities as defined by the agency.

#### 1. Probationary or Trial Status

Upon lateral unclassified State title change, an employee shall be in probationary or trial status; however, if a covered employee previously held permanent status in the unclassified State title to which moved, the lateral move shall be with permanent status in the unclassified State title and the employee is not in trial status. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period.

#### 2. Probationary Period

a. An employee in probationary status whose position is moved laterally must complete a probationary period of:

- (1) Twelve months' duration for noninstructional personnel;
- (2) The academic year duration for instructional personnel (teachers); or
- (3) Not more than two full academic years' duration for faculty at State technical colleges.

b. At his discretion, the agency head or his designee may count up to six months of continuous satisfactory service in the previous unclassified State title toward the probationary period which would result in a reduction in the length of the employee's performance review period.

c. An employee who performs unsatisfactorily during the probationary period must be terminated before becoming a covered employee.

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### 3. Trial Period

A covered employee whose position is moved laterally to an unclassified State title in which he has not held permanent status must complete a six-month trial period. This period may be extended up to 90 calendar days upon written notification to the employee of the extension prior to the end of the six-month trial period. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period.

### **19-704.08. MOVEMENT BETWEEN CLASSIFIED SERVICE AND UNCLASSIFIED SERVICE**

#### A. Classified Service to Unclassified Service

##### 1. Movement of the Employee

a. When an employee moves from a classified position to an unclassified position with a State salary range, the employee's status will be governed by Regulations 19-704.03 through 19-704.05 concerning the promotion, demotion, reassignment, or transfer of an unclassified employee.

b. When an employee moves from a classified position to an unclassified position without a State salary range, the agency shall determine whether the new position has a higher, lower, or equivalent level of job duties or responsibilities than the former position. Based on that determination, the movement will be a promotion, demotion, reassignment, or transfer, and the employee's status will be governed by Sections 19-704.03 through 19-704.05.

##### 2. Movement of the Position

a. When the position an employee occupies moves from the classified service to the unclassified service, the employee's status will be governed by Regulation 19-704.07 concerning the movement of unclassified positions.

b. When the position an employee occupies moves from classified service to become an unclassified position without a State salary range, the agency shall determine whether the new position has a higher, lower, or equivalent level of job duties or responsibilities than the former position. Based on that determination, the employee's status will be governed by Section 19-704.07 concerning the movement of unclassified positions.

#### B. Unclassified Service to Classified Service

##### 1. Movement of the Employee

a. When an employee moves from an unclassified position with a State salary range to a classified position, the employee's status will be governed by Sections 19-704.03 through 19-704.05 concerning the promotion, demotion, reassignment, or transfer of classified employees.

b. When an employee moves from an unclassified position without a State salary range to a classified position, the agency shall determine whether the new position has a higher, lower, or equivalent level of job duties or responsibilities than the former position. Based on that determination, the movement will be a promotion, demotion, reassignment, or transfer, and the employee's status will be governed by Sections 19-704.03 through 19-704.05.

##### 2. Movement of the Position

a. When the position an employee occupies moves from the unclassified service to the classified service, the employee's status will be governed by Section 19-704.06 concerning the reclassification of positions.

b. When the position an employee occupies changes from an unclassified position without a State salary range to become a classified position, the agency shall determine whether the new position has a higher, lower, or equivalent level of job duties or responsibilities than the former position. Based on that determination, the employee's status will be governed by Section 19-704.06 concerning the reclassification of positions.

#### **19-705. CLASSIFIED EMPLOYEE COMPENSATION PLAN**

##### **SCOPE AND PURPOSE**

This Regulation governs the establishment, maintenance, and administration of the Compensation Plan applicable to all FTE positions in the classified service.

##### **19-705.01. STATEMENTS OF POLICY**

A. The Department of Administration designates the State Human Resources Director to administer all Department of Administration policies and procedures relating to the Compensation Plan.

B. The Division of State Human Resources shall establish and maintain a Compensation Plan to consist of (1) the official classification listing, (2) the official pay bands, and (3) the Regulations and procedures governing the administration of the Compensation Plan.

C. In an agency whose agency head is reviewed by the Agency Head Salary Commission, no employee may receive a salary in excess of 95% of the midpoint of the agency head's salary range or the agency head's actual salary, whichever is greater, except on approval of the State Human Resources Director. Higher education technical colleges, colleges, and universities shall be exempt from this requirement.

D. When an employee moves from an unclassified position to a classified position, the employee's pay will be governed by the classified Compensation Plan.

E. An agency requests for or implementation of an increase in salary shall be requested or implemented when sufficient funds are available. The State Human Resources Director may require submission of appropriate documentation attesting to the availability of funding.

F. The South Carolina Constitution prohibits an agency from granting extra compensation, fee, or allowance to any public officer, agent, servant, or contractor after services rendered, or contract made, nor authorize payment or part payment of any claim under any contract not authorized by law.

G. An agency shall maintain documentation appropriate for the administration of this Regulation.

H. Prior to implementation, agencies shall develop any written policies described in these Regulations to govern the administration of salary increases and decreases.

I. The State Human Resources Director shall have the authority to make exceptions to Section 19-705 consistent with federal, State and local laws.

##### **19-705.02. ADMINISTRATION OF THE COMPENSATION PLAN**

A. The Division of State Human Resources periodically shall conduct studies for the purpose of making recommendations that will maintain a competitive Compensation Plan.

B. An employee shall be paid within the pay bands in accordance with the provisions of this Regulation.

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C. An employee shall not be paid in excess of the maximum of the pay band for a class, unless such payment is authorized by this Regulation.

D. Any pay action which requires approval from DSHR must receive such approval prior to an agency effecting the action.

E. Prior to submission of a request to DSHR for approval, the agency human resources shall review all proposed pay changes to determine that they are in compliance with the provisions of this Regulation.

### 19-705.03. HIRING SALARIES

A. Hiring at the Minimum - An employee must be paid at least the minimum of the pay band for the class to which hired.

B. Hiring Above the Minimum

1. Exceptional Qualifications – If an individual is exceptionally qualified for the position, DSHR may authorize a salary for the individual at a rate above the minimum of the pay band for the class based on written justification submitted by the agency.

2. Special Hire Rate – Based on written justification submitted by the agency, the Division of State Human Resources may approve a special hire rate when experience has shown that recruitment of qualified applicants for selected positions in a class has not been possible at the minimum of the pay band.

### 19-705.04. SALARY INCREASES

A. Agencies shall develop written policies to govern the administration of salary increases for employees.

B. In-Band Salary Increase - Written justification for awarding an in-band salary increase shall be maintained by the employing agency. An employee's salary may be increased within his current pay band for the following reasons:

1. Performance Increase – An agency may increase an employee's salary based upon performance in accordance with Section 8-1-160 of the South Carolina Code of Laws. Such increase shall be determined by the agency. A performance increase shall not place an employee's salary above the maximum of the pay band.

2. Additional Skills or Knowledge Increase - An in-band increase may be granted when an employee gains additional skills or knowledge directly related to the job. An employee's salary may be increased by up to 15% for the acquisition of additional skills or knowledge, provided such increase does not place the employee's salary above the maximum of the pay band. For an increase of more than 15%, the agency must submit written justification to DSHR for approval.

3. Additional Job Duties or Responsibilities Increase - An in-band increase may be granted when an employee is assigned additional job duties or broader responsibilities, either within his current position or as a reassignment to another position in the same pay band in the employing agency. An employee's salary may be increased by up to 15% for the recognition of the additional job duties or responsibilities, provided such increase does not place the employee's salary above the maximum of the pay band. For an increase of more than 15%, the agency must submit written justification to DSHR for approval.

4. Transfer Increase - An in-band increase may be granted when an employee accepts a position within another agency which is in the same pay band as his current position. An employee's salary may be increased by up to 15% for the recognition of a transfer, provided such increase does not place the employee's salary above

the maximum of the pay band. For an increase of more than 15%, the agency must submit written justification to DSHR for approval.

5. Retention Increase - An in-band increase may be granted when an employee has a bona fide job offer from another employer, either within or outside of State government, and an agency wishes to retain the services of this employee in his current position. An employee's salary may be increased by up to 15% for the purpose of retention, provided such increase does not place the employee's salary above the maximum of the pay band. For an increase of more than 15% for employees who have bona fide job offers, the agency must submit written justification to DSHR for approval. An employee shall receive no more than one retention increase in a one-year period.

C. Salary Increases Resulting from Upward Band Changes - An employee's salary may be increased as a result of movement to a higher pay band for the following reasons:

1. Promotional Increase

a. Upon promotion, the employee must be paid at least the minimum of the pay band of the class to which promoted.

b. Upon promotion, an employee's salary may be increased by up to 15% of his salary prior to promotion, or to the midpoint of the new pay band, whichever is greater. For an increase of more than 15% and above the midpoint of the pay band, the agency must submit written justification to DSHR for approval. Such increase shall not place the employee's salary above the maximum of the new pay band.

2. Reclassification Increase

a. When an employee's position is reclassified to a class with a higher pay band, the employee's salary shall be increased to at least the minimum of the pay band of the class to which reclassified.

b. Upon reclassification, an employee's salary may be increased by up to 15% of his salary prior to reclassification, or to the midpoint of the new pay band, whichever is greater. For an increase of more than 15% and above the midpoint of the pay band, the agency must submit written justification to DSHR for approval. Such increase shall not place the employee's salary above the maximum of the new pay band.

3. Reallocation Increase - When DSHR reallocates a class to a higher pay band:

a. An employee in that class shall receive a salary increase at least to the new minimum of the new pay band; or

b. An employee in that class may receive up to a 15% salary adjustment provided such increase does not place an employee's salary above the maximum of the new pay band.

D. An employee is not eligible to receive a salary increase upon downward reclassification or demotion.

E. Return from Leave Without Pay - An employee who has returned from an authorized leave of absence without pay shall be paid at the same rate being paid at the time leave was granted, except that the employee shall be granted any legislative increases authorized during the employee's leave of absence. In determining the amount of adjustment that the employee shall be granted, the same implementation instructions that applied to all employees in that class shall be followed.

#### **19-705.05. SALARY DECREASES**

A. Agencies shall develop written policies to govern the administration of salary decreases for employees.



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B. In-Band Salary Decreases - Written justification for effecting any salary decrease shall be maintained by the employing agency. An employee's salary may be decreased within his current pay band for the following reasons:

1. Performance Decrease – An agency may decrease an employee's salary based upon performance in accordance with Section 8-1-160 of the South Carolina Code of Laws. Such decrease shall be determined by the agency. Performance decreases must not place an employee's salary below the minimum of the pay band. Performance decreases must be based on the results of an Employee Performance Management System (EPMS) evaluation.

### 2. Assignment of Lower-Level Responsibilities

a. Voluntary Reason - An employee who is voluntarily assigned lower-level responsibilities or moved to a position in his current pay band with lower-level responsibilities than his current position, may, at the discretion of the agency head or his designee, be paid at any rate within the pay band provided the rate is equal to or below the current salary and provided the employee signs a written statement indicating agreement to the salary decrease. The signed document should be maintained by the agency.

b. Involuntary Reason – A covered employee who is involuntarily assigned lower-level responsibilities or moved to a position in his current pay band with lower-level responsibilities than his current position, may, at the discretion of the agency head or his designee, have his salary reduced no more than 15% or to the midpoint of the pay band, whichever is lower, immediately following the assignment of lower-level responsibilities. For decreases of more than 15% the agency must submit written justification to DSHR for approval.

If the employee's salary is allowed to remain above the maximum of the pay band, the employee shall not be eligible for pay increases unless:

(1) Subsequent pay adjustments establish the maximum of the pay band above the employee's rate of pay; or

(2) The employee is subsequently promoted, or his position is reclassified and his current rate of pay is below the maximum for the pay band for the class to which promoted or reclassified.

C. Salary Decreases Resulting from Downward Band Changes - Written justification for effecting any salary decrease shall be maintained by the employing agency. An employee's salary may be decreased as a result of movement to a lower pay band for the following reasons:

### 1. Demotion and Downward Reclassification Decreases

a. Voluntary Reason - An employee who voluntarily has his position reclassified to a class with a lower pay band or is demoted to a position in a lower pay band, may, at the discretion of the agency head or his designee, be paid at a salary equal to or below the current salary. However, the rate must be within the lower pay band and the employee must sign a written statement indicating agreement to the salary decrease. The signed document should be maintained by the agency.

b. Disciplinary or Performance Reason - An employee who, as the result of a disciplinary action or unsatisfactory rating on an EPMS evaluation, has his position reclassified to a class with a lower pay band or is demoted to a position in a lower pay band, may, at the discretion of the agency head, be paid at a rate equal to or below the current salary, but within the lower pay band.

c. Involuntary or Non-Disciplinary Reason – When an employee is demoted due to involuntary or non-disciplinary reasons or when an occupied position is reclassified to a class in a lower pay band for these

reasons, the employee's salary may, at the discretion of the agency head or designee be reduced no more than 15% or to the midpoint of the pay band, whichever is lower, immediately following the demotion or downward reclassification. For decreases of more than 15% the agency must submit written justification to DSHR for approval.

If the employee's salary is allowed to remain above the maximum of the lower pay band, the employee shall not be eligible for pay increases unless:

(1) Subsequent pay adjustments establish the maximum of the pay band above the employee's rate of pay; or

(2) The employee is subsequently promoted, or his position is reclassified and his current rate of pay is below the maximum for the pay band for the class to which promoted or reclassified.

d. An employee who is promoted or his position is reclassified upward, and subsequently demoted or his position is reclassified downward prior to attaining permanent status in a class of a higher pay band, shall have a reduction in pay as follows:

(1) When an employee is demoted or his position is reclassified to the previous class or to a class with the same pay band held prior to promotion or reclassification, or to a class with a lower pay band, the employee's salary will be reduced by the amount previously received upon promotion or upward reclassification provided the salary will not exceed the maximum of the pay band for the class to which demoted or downwardly reclassified.

(2) When an employee is demoted or his position is reclassified downward to a class having a higher pay band than the original position, the employee's salary will be reduced by the amount previously received upon promotion or reclassification and the employee's new salary will be established in accordance with Section 19-705.04 D.

## 2. Downward Band Reallocation

When a class is reallocated to a lower pay band, the pay of an employee shall not be changed as a result of this action for a period of six months from the date of the action unless an exception is approved by the Department of Administration. After the expiration of the six-month period, with the approval of the agency head, the employee's salary may be reduced no more than 15% or to the midpoint of the pay band, whichever is lower. If the employee's salary exceeds the maximum of the new pay band, the employee shall not be eligible for pay increases of any type unless:

a. Subsequent pay adjustments establish the maximum of the pay band above the employee's rate of pay; or

b. The employee is subsequently promoted or his position is reclassified, and his current rate of pay is below the maximum of the pay band for the class to which promoted or reclassified.

## 19-705.06. SPECIAL SALARY ADJUSTMENTS

The State Human Resources Director is authorized to approve pay actions outside the provisions of Sections 19-705.04 and 19-705.05 if circumstances warrant such approval.

## 19-705.07. COMPENSATION NOT INCLUDED IN BASE SALARY

A. Temporary Salary Adjustment – The Division of State Human Resources is authorized to approve a temporary salary adjustment for an employee in a full-time equivalent (FTE) position if circumstances warrant such approval. The temporary salary adjustment must be removed when the circumstances that warranted such

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an increase are no longer present. Removal of a temporary salary adjustment does not constitute a basis for a grievance or appeal.

B. **Shift Differential Pay** - The Division of State Human Resources may approve the additional payment of a shift differential for approved classifications of employees in the entire agency or any portion of the agency assigned to an evening, night, weekend, rotating, or split shift. To qualify the shift for approval, the majority of hours of the shift must be outside the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. The employee's pay shall be adjusted by the amount approved, even if such amount increases the employee's salary above the maximum of the pay band for the class. Removal of a shift differential does not constitute a basis for a grievance or appeal.

C. **On-Call Pay** - On-call pay is pay by the employing agency for approved classifications of employees in the entire agency or any portion of the agency to remain available to return to work within a specified period of time. The Division of State Human Resources must approve on-call pay for employees. Removal of on call pay does not constitute a basis for a grievance or appeal.

D. **Call Back Pay** - Call back pay is pay by the employing agency for an employee to report to work either before or after normal duty hours to perform emergency services. Each agency shall determine which groups of employees shall be subject to call back. Nonexempt employees shall be compensated for hours worked as a result of a call back at their regular hourly rate plus any shift differential for which they might be eligible and such time shall be counted in computing any overtime that may be due. When an employee to be called back for emergency services which require less than two hours on the job, or when no work is available when he reports, the employee shall be compensated a minimum of two hours. An employee shall not receive call back pay if:

1. The call back has been canceled and the employee received notice in advance not to report to work, or
2. The employee refuses alternate work that is offered upon reporting to work.

Removal of call back pay does not constitute a basis for a grievance or appeal.

E. **Special Assignment Pay** – The Division of State Human Resources may approve additional compensation to classifications of employees in the entire agency or any portion of the agency for periods of time when he is on special assignment if circumstances warrant such approval based on guidelines established by DSHR. Removal of a special assignment pay does not constitute a basis for a grievance or appeal.

F. **Market or Geographic Differential Pay** - The Division of State Human Resources may approve Market or Geographic Differential Pay for classifications of employees in the entire agency or any portion of the agency for periods of time when circumstances warrant such approval. Removal of market or geographic differential pay does not constitute a basis for a grievance or appeal.

G. **Bonuses** – The General Assembly has authorized various programs through which agencies may award bonuses to employees. Agencies shall comply with guidelines established by the Department of Administration in the administration of bonus programs.

H. **Grant Salary Adjustment** - The Division of State Human Resources is authorized to approve a grant salary adjustment for an employee in an FTE position if circumstances warrant such approval. The grant salary adjustment must be removed when the circumstances that warranted such an increase are no longer present. Removal of grant salary adjustment pay does not constitute a basis for a grievance or appeal.

### 19-705.08. EFFECTIVE DATES OF SALARY CHANGES

A. Unless otherwise stated, the effective date of all salary changes provided in these Regulations shall be no earlier than the date the action is approved by the appropriate authority.

B. Retroactivity

Agencies must comply with Article III, Section 30 of the South Carolina Constitution regarding retroactivity.

C. Concurrent Increases

1. When general increases and other salary increases are awarded on the same date, the general increase shall be applied prior to any other salary increases.

2. When performance pay increases under Section 8-11-940 of the South Carolina Code of Laws and salary increases other than general increases are awarded on the same date, the performance pay increases shall be applied prior to any other salary increases.

**19-706. ESTABLISHMENT OF UNCLASSIFIED POSITIONS AND THE UNCLASSIFIED EMPLOYEE COMPENSATION PLAN**

**SCOPE AND PURPOSE**

This Regulation governs the establishment, maintenance, and administration of the Unclassified Compensation Plan applicable to all unclassified FTE positions, except athletics coaches and unclassified employees in the athletics department of post-secondary educational institutions as defined in Section 59-107-10 of the South Carolina Code of Laws except the technical education colleges.

**19-706.01. CATEGORIES OF UNCLASSIFIED POSITIONS**

A. An unclassified position is a full-time equivalent (FTE) position that has been assigned to an unclassified State title and falls under one of the following categories: 1) agency head covered by the Agency Head Salary Commission, 2) Executive Compensation System, 3) academic personnel, or 4) unclassified other.

B. The compensation of agency heads covered by the Agency Head Salary Commission is addressed in Section 19-706.04 A.

C. The compensation of employees in positions covered by the Executive Compensation System is governed by Section 19-706.04 B.

D. Academic personnel are defined by Section 8-11-220 of the South Carolina Code of Laws as “presidents, provosts, vice presidents, deans, teaching and research staffs, and others of academic rank employed by the State educational institutions of higher learning, or medical institutions of education and research.” The compensation of employees in positions in the category of academic personnel is governed by Section 19-706.04 C. Presidents who are covered by the Agency Head Salary Commission are not subject to the Regulations pertaining to academic personnel.

E. Positions in the category of Unclassified Other include:

1. Agency heads not covered by the Agency Head Salary Commission;
2. Staff of the Governor’s office;
3. Teachers;

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4. Such other personnel employed by the institutions of higher learning and/or medical institutions of education and research as are recommended by the respective governing bodies and approved by the Department of Administration;

5. Other positions as the General Assembly may elect to exempt.

The compensation of employees in positions in the category of Unclassified Other is governed by Section 19-706.04 D.

### 19-706.02. STATEMENTS OF POLICY

A. The Department of Administration designates the State Human Resources Director to administer all Department of Administration policies and procedures relating to the unclassified State titles and compensation of employees in unclassified positions.

B. The Division of State Human Resources shall develop and maintain a position numbering system that will identify each unclassified position.

C. In an agency whose agency head is reviewed by the Agency Head Salary Commission, no employee may receive a salary in excess of 95% of the midpoint of the agency head's salary range or the agency head's actual salary, whichever is greater, except on approval of the State Human Resources Director. Higher education technical colleges, colleges, and universities shall be exempt from this requirement.

D. All pay actions which require approval from DSHR must receive such approval prior to an agency implementing the actions.

E. The South Carolina Constitution prohibits an agency from granting extra compensation, fee, or allowance to any public officer, agent, servant, or contractor after services rendered, or contract made, nor authorize payment or part payment of any claim under any contract not authorized by law.

F. All employees in unclassified positions with State salary ranges shall be paid within their respective range and the provisions of Section 19-706.

G. An employee who has returned from an authorized leave of absence without pay shall be paid at the same rate being paid at the time leave was granted, except that the employee may be granted any legislative increases made during the employee's absence. In determining the amount of adjustment that the employee may be granted, the same implementation instructions that applied to all other employees in the same unclassified category shall be followed.

H. A position may move between the classified and unclassified systems provided the agency does not exceed its respective number of classified and unclassified authorized FTEs. (*Refer to Section 19-704.08.*)

I. When an employee moves from a classified position to an unclassified position, the employee's pay will be governed by the unclassified compensation plan.

J. An agency's request for or implementation of an increase in salary shall be requested or implemented when sufficient funds are available. The State Human Resources Director may require submission of appropriate documentation attesting to the availability of funding.

K. An agency shall maintain documentation appropriate for administration of these Regulations.

L. Prior to implementation, agencies shall develop any written policies described in these Regulations to govern the administration of salary increases and decreases.

M. The State Human Resources Director shall have the authority to make exceptions to Section 19-706 consistent with federal, State and local laws.

### **19-706.03. ADMINISTRATION OF THE COMPENSATION PLAN**

A. The Division of State Human Resources will coordinate with agencies to develop, implement, and maintain unclassified State titles which appropriately identify and distinguish between unclassified positions.

B. An unclassified position should be authorized by the General Assembly and established by DSHR. When establishing an unclassified position, DSHR assigns a position number, unclassified State title and code, slot number, and State salary range, if applicable.

C. The Division of State Human Resources has the authority to designate a classified position as unclassified for purposes of initially placing positions in the Executive Compensation System.

D. The Division of State Human Resources may, as appropriate, conduct studies of unclassified positions with State salary ranges for the purpose of making recommendations that will promote a competitive compensation plan.

### **19-706.04. HIRING SALARIES, SALARY INCREASES, AND SALARY DECREASES FOR EMPLOYEES IN UNCLASSIFIED POSITIONS**

#### **A. Agency Heads Covered by the Agency Head Salary Commission**

The compensation of agency heads covered by the Agency Head Salary Commission is governed by the Commission and the State Fiscal Accountability Authority.

#### **B. Executive Compensation System**

##### **1. Hiring Salaries for Employees in the Executive Compensation System**

a. Hiring at the Minimum - An employee must be paid at least the minimum of the State salary range for the position.

b. Hiring Above the Minimum – An employee may be hired at a salary up to the midpoint of the State salary range for the position if circumstances warrant such approval. The Department of Administration may authorize payment of a salary above the midpoint of the State salary range for the position based on written justification submitted by the agency.

c. Entry into the Executive Compensation System - Upon movement into the new position, the employee is eligible for up to a 15% salary increase or up to the midpoint of the State salary range for the new position, whichever is greater. Such increase shall not place the employee's salary above the maximum of the new State salary range. The Department of Administration may authorize exceptions based on written justification submitted by the agency.

##### **2. Salary Increases for Employees in the Executive Compensation System**

a. Written justification for awarding salary increases shall be maintained by the agency.

b. In-Range Increases

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(1) Legislative Increase – An annual pay increase shall be provided to the Executive Compensation System employees in accordance with the provisions of the annual Appropriation Act.

(2) Performance Increase - An agency may increase an employee's salary based upon performance in accordance with Section 8-1-160 of the South Carolina Code of Laws. Such an increase shall be determined by the agency. A performance increase shall not place an employee's salary above the maximum of the State salary range.

### c. Salary Increases Upon Promotion

(1) Upon promotion, an employee's salary must be at least the minimum of the State salary range for the position to which promoted.

(2) Upon promotion, an employee's salary may be increased up to 15% or up to the midpoint of the State salary range for the position to which promoted, whichever is greater. Such increase shall not place the employee's salary above the maximum of the new State salary range. The Department of Administration may authorize exceptions based on written justification submitted by the agency.

### d. Salary Increases Upon Upward Reevaluation

(1) When an occupied position is reevaluated and is assigned a higher State salary range, the employee's salary must be at least the minimum of the new State salary range.

(2) Upon an upward reevaluation, an employee's salary may be increased up to 15% or up to the midpoint of the State salary range, whichever is greater. Such increase shall not place the employee's salary above the maximum of the new State salary range.

## 3. Salary Decreases for Employees in the Executive Compensation System

a. Written justification for effecting any salary decrease shall be maintained by the agency.

b. Performance Decrease – An agency may decrease an employee's salary based upon performance in accordance with Section 8-1-160 of the South Carolina Code of Laws. Performance decreases may not place an employee's salary below the minimum of the State salary range. Performance decreases must be based on the results of an Employee Performance Management System (EPMS) evaluation, and the salary decrease shall be determined by the agency.

### c. Salary Decreases Upon Demotion or Downward Reevaluation

(1) Voluntary Reason - An employee, who is voluntarily demoted to a position with a lower State salary range or who voluntarily has his position reevaluated to a lower State salary range, may at the discretion of the agency head or his designee, be paid at any salary equal to or below the current salary. However, the salary must be within the lower State salary range, and the employee must sign a written statement indicating agreement to the salary decrease. The signed document with justification should be maintained by the agency.

(2) Disciplinary or Performance Reason - An employee who, as the result of a disciplinary action or an unsatisfactory rating on an EPMS evaluation, has his position reevaluated to a lower State salary range or is demoted to a position with a lower State salary range, may, at the discretion of the agency head, be paid at any salary within the lower State salary range provided the salary is equal to or below the current salary, but must be within the lower State salary range.

(3) Involuntary or Non-Disciplinary Reason - When a covered employee is demoted due to involuntary or non-disciplinary reasons or when an occupied position is reevaluated to a lower State salary range

for these reasons, the employee's salary shall not be reduced for a period of six months from the date of the demotion or downward reevaluation unless an exception is approved by the Department of Administration. After the expiration of the six-month period, with the approval of the agency head or his designee, the employee's salary may be reduced no more than 15% or to the midpoint of the State salary range, whichever is lower. An employee exempt from the State Employee Grievance Procedure Act, who is involuntarily demoted or whose position is downwardly reevaluated may have his salary reduced no more than 15% or to the midpoint of the pay State salary range, whichever is lower, immediately following the demotion or downward reevaluation.

If the employee's salary is allowed to remain above the maximum of the lower State salary range for the position, the employee shall not be eligible for pay increases unless:

(a) Subsequent pay adjustments establish the maximum of the State salary range above the employee's rate of pay; or

(b) The employee is subsequently promoted, or his position is reevaluated and his current salary is below the maximum of the State salary range for the position.

### C. Academic Personnel

#### 1. Hiring Salaries for Employees in the Category of Academic Personnel

Agencies may determine hiring salaries for unclassified employees in the category of academic personnel. Agencies should consider comparable positions and market data for the occupational area when setting initial hiring salaries for employees in this category.

#### 2. Salary Increases for Employees in the Category of Academic Personnel

a. Agencies shall develop written policies to govern the administration of salary increases for academic personnel in unclassified positions. Written justification for awarding salary increases shall be maintained by the agency.

b. A legislative increase shall be provided to academic personnel in accordance with the provisions of the annual Appropriation Act.

c. Agencies may award a salary increase of up to 15% for any of the reasons listed below. For an increase of more than 15%, the agency must submit written justification to DSHR for approval.

(1) The acquisition of additional skills or knowledge directly related to the job;

(2) The assignment of additional job duties or responsibilities;

(3) The retention of an employee who has a bona fide job offer from an employer, either within or outside of State government. For an increase of more than 15%, the employee must have a bona fide job offer and the request must be submitted to DSHR for approval. An employee shall receive no more than one retention increase in a one-year period;

(4) The need to address internal equity or equity with the external market;

(5) Promotion to a higher-level position - The agency shall determine whether the new position has a higher level of job duties or responsibilities than the former position; or

(6) Assignment of higher-level job duties or responsibilities as defined by the agency which results in a change in unclassified State title.



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d. As provided in an agency's faculty promotion policy, the agency may develop policies for rank promotions for faculty. Such increases shall be determined by the agency.

e. A performance increase may be awarded to an employee in accordance with Section 8-1-160 of the South Carolina Code of Laws. Such increases shall be determined by the agency.

### 3. Demotions and Salary Decreases for Employees in the Category of Academic Personnel

Agencies shall develop written policies to govern the administration of salary decreases for academic personnel. Written justification for effecting any salary decrease shall be maintained by the agency.

a. Performance or Disciplinary Decrease – An agency may decrease an employee's salary based upon performance or disciplinary reasons. Performance decreases should be based on the results of a performance evaluation. Any salary decrease shall be determined by the agency.

#### b. Demotion and Assignment of Lower-Level Responsibilities

(1) Voluntary Reason - An employee, who is voluntarily demoted or is voluntarily assigned to lower-level responsibilities within his current position, may be paid at a rate which is agreed upon by the employee and the agency provided the employee signs a written statement indicating agreement to the salary decrease. The signed document should be maintained by the agency.

(2) Involuntary Reason – An employee, who is involuntarily demoted or assigned lower-level responsibilities, shall not have his salary reduced by more than 15%. For a decrease of more than 15%, the agency must submit written justification to DSHR for approval.

### 4. Administrative Salary Adjustment

Institutions of higher learning may award administrative salary adjustments to unclassified academic personnel during periods of time when they are assigned additional administrative responsibilities related to their role as Dean, Assistant Dean, Associate Dean, or Department Chairman. Administrative salary adjustments are not considered part of the employee's base salary. An agency may award an administrative salary adjustment of up to 15%. For an increase of more than 15% or for an increase related to administrative responsibilities other than those listed above, the agency must submit written justification to DSHR for approval.

### 5. Summer Employment for Academic Personnel of State Institutions of Higher Learning

a. Summer employment is not considered dual employment, which covers additional compensation earned during an employee's base period of employment. Therefore, summer employment may occur over any specified period of time between May and September of a calendar year.

b. All institutions of higher learning should develop policies and procedures for governing academic personnel who are teaching summer sessions outside of their base period of employment. Institutions of higher learning should consider comparable positions and market data for the occupational area when determining compensation for summer teaching. The rate of pay should be comparable to the preceding academic year and may not exceed 40% of the employee's annualized salary. Written justification for any exceptions should be submitted to DSHR for approval.

c. Academic personnel shall be compensated at the same rate of pay as the immediately preceding academic year for sponsored research or other activities performed during the summer months (between academic years) which are not related to a regular summer session.

d. Institutions of higher learning shall maintain records of all agreements pertaining to summer employment.

#### D. Unclassified Other

##### 1. Unclassified Other (Agency Heads Not Covered By the Agency Head Salary Commission)

Agency heads not covered by the Agency Head Salary Commission shall have their salary established in accordance with relevant legislation.

##### 2. Unclassified Other (Teachers)

Agencies shall pay all teachers the appropriate salary and any increases provided by the salary schedule of the school district in which the agency is located.

##### 3. Unclassified Other (Non-Teachers)

###### a. Hiring Salaries for Employees in the Category of Unclassified Other (Non-Teachers)

Agencies may determine hiring salaries for employees in the category of unclassified other (non-teachers). Agencies should consider comparable positions and market data for the occupational area when setting hiring salaries for employees in these unclassified positions.

###### b. Salary Increases for Employees in the Category of Unclassified Other (Non-Teachers)

(1) Written justification for awarding salary increases shall be maintained by the agency.

(2) A legislative increase shall be provided to employees in the category of unclassified other (non-teachers) in accordance with the provisions of the annual Appropriation Act.

(3) Agencies may award a salary increase of up to 15% for any of the reasons listed below. For an increase of more than 15%, the agency must submit written justification to DSHR for approval.

(a) The acquisition of additional skills or knowledge directly related to the job;

(b) The assignment of additional job duties or responsibilities;

(c) The retention of an employee who has a bona fide job offer from an employer, either within or outside of State government. For an increase of more than 15%, the employee must have a bona fide job offer and the request must be submitted to DSHR for approval. An employee shall receive no more than one retention increase in a one-year period;

(d) The need to address internal equity or equity with the external market;

(e) Promotion to a higher-level position. The agency shall determine whether the new position has a higher level of job duties or responsibilities than the former position; or

(f) Assignment of higher-level job duties or responsibilities which results in a change in unclassified State title.

(4) A performance increase may be awarded to an employee in accordance with Section 8-1-160 of the South Carolina Code of Laws. Such increases shall be determined by the agency.

###### c. Demotions and Salary Decreases for Employees in the Category of Unclassified Other (Non-Teachers)

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Agencies shall develop written policies to govern the administration of salary decreases for employees in the category of unclassified other (non-teachers). Written justification for effecting any salary decrease shall be maintained by the agency.

(1) Performance Decrease – An agency may decrease an employee’s salary based upon performance in accordance with Section 8-1-160 of the South Carolina Code of Laws. Performance decreases must be based on the results of an Employee Performance Management System (EPMS) evaluation, and the salary decrease shall be determined by the agency.

(2) Demotion or Assignment of Lower-Level Responsibilities

(a) Voluntary Reason - An employee, who is demoted or is voluntarily assigned to lower-level responsibilities within his current position, may be paid at a rate which is agreed upon by the employee and the agency provided the employee signs a written statement indicating agreement to the salary decrease. The signed document should be maintained by the agency.

(b) Involuntary Reason –

i. Disciplinary or Performance Reason - An employee who, as the result of a disciplinary action or unsatisfactory rating on an EPMS evaluation, is demoted or assigned lower-level responsibilities, shall not have his salary reduced by more than 15%. For a decrease of more than 15%, the agency must submit written justification to DSHR for approval.

ii. An employee, who is involuntarily demoted or assigned lower-level responsibilities, shall not have his salary reduced by more than 15% immediately following the demotion or assignment of lower-level responsibilities.

For a decrease of more than 15%, the agency must submit written justification to DSHR for approval.

### 19-706.05. COMPENSATION NOT INCLUDED IN BASE SALARY

A. Temporary Salary Adjustment – The Division of State Human Resources is authorized to approve a temporary salary adjustment for an employee in an FTE position if circumstances warrant such approval. The temporary salary adjustment must be removed when the circumstances that warranted such an increase are no longer present. Removal of temporary salary adjustment does not constitute a basis for a grievance.

B. Bonuses – The General Assembly has authorized various programs through which agencies may award bonuses to employees. Agencies shall comply with guidelines established by the Department of Administration in the administration of bonus programs.

C. Grant Salary Adjustment – The Division of State Human Resources is authorized to approve a grant salary adjustment for an employee in an FTE position if circumstances warrant such approval. The grant salary adjustment must be removed when the circumstances that warranted such an increase are no longer present. Removal of grant salary adjustment does not constitute a basis for a grievance.

D. Special Assignment Pay – The Division of State Human Resources may approve additional compensation to classifications of employees in the entire agency or any portion of the agency for periods of time when he is on special assignment if circumstances warrant such approval based on guidelines established by DSHR. Removal of special assignment pay does not constitute a basis a grievance.

### 19-706.06. EFFECTIVE DATES OF SALARY CHANGES

A. Unless otherwise stated, the effective date of all salary changes provided in Sections 19-706.04 and 19-706.05 shall be no earlier than the date the action is approved by the appropriate authority.

**B. Retroactivity**

Agencies must comply with Article III, Section 8-11-940 of the South Carolina Constitution regarding retroactivity.

**C. Concurrent Increases**

When general increases and other salary increases are awarded on the same date, the general increase shall be applied prior to any other salary increases.

**19-707. HOURS OF WORK AND OVERTIME  
SCOPE AND PURPOSE**

This Regulation governs the hours of work and overtime policies for employees.

**19-707.01. HOURS OF WORK**

A. The minimum full-time workweek for employees of agencies and institutions is 37.5 hours. The agency may vary an employee's work schedule through the use of alternative scheduling strategies including telecommuting to meet the needs and service delivery requirements of the agency.

B. The agency may require an employee to work additional hours.

C. Each agency is required to keep an accurate record of all employee's scheduled hours of work and leave taken. Leave shall be recorded in the appropriate categories and shown as either leave with or without pay. The agency head has the ultimate responsibility for the accuracy and proper maintenance of hours of work and leave records.

**19-707.02. OVERTIME - COMPENSATORY TIME**

A. The Division of State Human Resources develops an overtime model policy to assist an agency in its policy development. The Division of State Human Resources must review and approve each agency's overtime policy.

B. Each agency shall develop an overtime policy and establish procedures that will ensure compliance with federal and state laws, including the Fair Labor Standards Act (FLSA).

C. By interpretation of the United States Department of Labor, State government is considered to be one employer for the purposes of applying FLSA.

D. For overtime purposes the two categories of employees are: (a) nonexempt (overtime provisions of FLSA do apply) and (b) exempt (overtime provisions of FLSA do not apply). The exempt or nonexempt status of any employee must be determined by the agency based on the provisions of FLSA. It is the responsibility of the agency head or his designee to determine whether an exemption is applicable to a particular employee.

E. Workweek is seven consecutive 24-hour periods, i.e., 168 consecutive hours designated by the employing agency.

Exception - In the case of law enforcement personnel or fire protection and emergency medical personnel, these categories of employees have work schedules up to 28 consecutive 24-hour periods, i.e., 672 consecutive hours designated by the employing agency.

F. Hours worked are all hours that an employee is permitted to work for the employing agency. Hours worked includes time during which an employee is necessarily required to be on the employing agency's

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premises, on duty, or at a prescribed work place. Hours worked do not include leave with or without pay or holidays when an employee does not actually work.

G. Overtime is actual hours worked in excess of 40 hours in a given seven consecutive day workweek as determined by the employing agency. The Fair Labor Standards Act contains special provisions for determining when overtime is earned by employees in certain job categories. These categories include:

1. Fire protection and emergency medical personnel;
2. Law enforcement (including security personnel in correctional institutions);
3. Hospitals or institutions primarily engaged in the care of the sick, the aged, the mentally ill, or the disabled that reside on the premises; and
4. Employees who are compensated for overtime using the fluctuating workweek method of payment for overtime as defined by FLSA which must be approved by DSHR prior to implementation.

H. Generally, a nonexempt employee should not incur overtime; however, overtime may be permitted when authorized by the agency.

I. Compensatory time is an acceptable alternative to overtime compensation for employees.

1. Upon separation from employment, nonexempt employees shall be paid for unused compensatory time, and exempt employees shall not be paid for unused compensatory time. Nonexempt employees shall be paid out for any unused compensatory time prior to transferring to another agency. Prior to an employee changing from a nonexempt status to an exempt status, nonexempt employees shall be paid out for any unused compensatory time.

2. Nonexempt employees shall be paid for unused compensatory time at a rate of compensation not less than the higher of:

- a. The average regular rate received by such employee during the last three years of the employee's employment, or
- b. The final regular rate received by such employee.

J. Nonexempt Employee Procedures

1. Payment for Overtime

Nonexempt employees shall either be paid overtime or given compensatory time for hours worked in excess of 40 hours in a given workweek of seven consecutive days as determined by the employing agency. For hours worked in excess of 40 in an established workweek of seven consecutive days, payment for overtime or the accrual of compensatory time shall be at the rate of time and one-half the employee's regular rate, computed on the basis of a 40-hour workweek. (*Refer to Exceptions in Section 19-707.02 G.*)

2. Compensatory Time for Nonexempt Employees

a. A nonexempt employee engaged in public safety work, emergency response work, or seasonal work may not accumulate more than 480 hours of compensatory time. Any nonexempt employee who has accumulated 480 hours of compensatory time shall be paid overtime for additional hours of work.

b. A nonexempt employee engaged in work other than public safety work, emergency response work, or seasonal work, may not accumulate more than 240 hours of compensatory time. Any nonexempt employee who has accumulated 240 hours of compensatory time shall be paid overtime for additional hours of work.

### 3. Recordkeeping for Nonexempt Employees

Each agency must maintain information for nonexempt employees as required by the United States Department of Labor.

#### K. Exempt Employee Procedures

##### 1. No Payment for Overtime

Exempt employees shall not be paid overtime.

##### 2. Compensatory Time

If allowed by an agency's overtime policy, exempt employees may receive compensatory time for hours worked in excess of 40 in the workweek. If granted, compensatory time must not be at a rate greater than one hour of compensatory time for each hour worked in excess of 40 in the workweek. Under no circumstances shall an exempt employee accumulate more compensatory time than FLSA allows for a nonexempt employee.

#### L. Employment at More Than One State Agency

When a nonexempt employee is employed at more than one State agency, each employing agency shall calculate separately the hours worked by the employee. By interpretation of the United States Department of Labor, State government is considered to be one employer for the purpose of applying FLSA; therefore, the agencies where the individual is employed should jointly determine whether such a nonexempt employee is owed any overtime compensation during a workweek. *(For information on dual employment, refer to Section 19-713.)*

#### M. Volunteers

Time spent as a volunteer is not included in hours worked. An employee who performs hours of service for a public agency for civic, charitable, or humanitarian reasons, without promise, expectation or receipt of compensation for services rendered, is considered to be a volunteer during such hours. An employee shall not be considered a volunteer if the employee is otherwise employed by the same public agency to perform the same type of services as those for which the employee proposes to volunteer. An employee may be paid expenses, reasonable benefits, a nominal fee, or any combinations thereof, for their service without losing status as volunteers. Determining if the receipt of expenses, benefits or fees would result in loss of volunteer status is a case-by-case analysis based on the total amount of expenses, benefits, and fees in the context of the economic realities of the situation.

## 19-708. HOLIDAYS

### SCOPE AND PURPOSE

This Regulation governs the observance of holidays by employees in FTE positions.

#### 19-708.01. ELIGIBILITY

All employees in FTE positions shall be allowed to observe with pay those holidays listed in Section 19-708.02.

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### 19-708.02. LEGAL HOLIDAYS

#### State Holidays

New Year's Day	January 1
Martin Luther King, Jr. Day	Third Monday in January
George Washington's Birthday/President's Day	Third Monday in February
Confederate Memorial Day	May 10
National Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veterans Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	Friday Following Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25
Day after Christmas	December 26

### 19-708.03. HOLIDAY OBSERVANCE PROCEDURE

A. Holidays are to be taken on the prescribed day unless the agency requires the employee to work. The agency shall give employees who must work on holidays prior notice if possible.

B. Employees shall observe the holiday on the designated day or receive holiday compensatory time.

C. When a holiday falls on a Sunday, the following Monday is deemed a public holiday for all purposes. When a holiday falls on Saturday, the preceding Friday is deemed a public holiday for all purposes. If either the following Monday or the preceding Friday is a holiday, then the State Human Resources Director will designate the day upon which the holiday will be observed by state employees. To ensure that no more than the legal holidays specified in Section 53-5-10 of the South Carolina Code of Laws are observed in a calendar year, a New Year's Day that falls on a Saturday must be observed on the following Monday.

D. Employees in FTE positions who do not work a normal Monday through Friday workweek shall receive no more nor any fewer number of holidays than those employees who work the normal Monday through Friday workweek.

E. The length of an employee's holiday is computed based on the number of hours in the employee's average workday. To determine the number of hours in a holiday, divide the total number of hours an employee is regularly scheduled to work during a week by five (regardless of the number of days the employee actually reports to work).

F. When a holiday falls during a period of leave with pay, that day will be counted as a holiday, not as a day of leave.

G. Employees who are on leave without pay the day before a holiday shall not be paid or receive holiday compensatory time for holidays falling during this period of leave without pay.

H. The holiday schedules of public colleges and universities, including technical colleges, shall not be in violation of this Section so long as the number of holidays provided in this Section are not exceeded.

#### **19-708.04. HOLIDAY COMPENSATORY TIME**

A. An employee, except an employee of an agency following an academic schedule, who is required by the agency to work on a holiday shall be given holiday compensatory time at the convenience of the agency within 90 days of such holiday.

B. An employee of an agency which follows an academic schedule who is required by the agency to work on a holiday shall be given holiday compensatory time at the convenience of the agency within one year from the date of the holiday.

C. An employee who must work a portion of the holiday due to a shift that begins on one day and ends on another shall be granted holiday compensatory time equal to all hours worked on the holiday.

D. All nonexempt employees who are not allowed to take holiday compensatory time earned for working on a holiday within the 90-day period, or the one-year period in the case of employees who follow academic schedules, shall be compensated for the holiday by the employing agency at the straight hourly pay rate of the employee. Exempt employees shall not be paid for unused holiday compensatory time. An agency head or designee may extend the 90-day period for an additional 90 days because of limited staffing.

E. All nonexempt employees shall be compensated for all holiday compensatory time upon separation from employment. Nonexempt employees shall be paid out for any unused holiday compensatory time prior to transferring to another agency. Prior to an employee changing from a nonexempt status to an exempt status, nonexempt employees shall be paid for any unused holiday compensatory time. Exempt employees shall not be paid for unused holiday compensatory time upon separation of employment.

#### **F. Holiday Compensatory Time Records**

Records shall be maintained for all employees who receive holiday compensatory time. Information contained in the record must include:

1. Compensatory time earned and used in terms of hours; and
2. The number of hours per week the employee is normally scheduled to work and the employee's average workday.

#### **19-709. ANNUAL LEAVE**

##### **SCOPE AND PURPOSE**

This Regulation governs the annual leave policies for employees in FTE positions.

##### **19-709.01. ELIGIBILITY**

A. Annual leave shall be earned by and granted to:



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1. Full-time employees in FTE positions, and

2. Part-time employees in FTE positions who are:

a. Scheduled to work at least one-half the workweek of the agency on a 12-month basis, or

b. Scheduled to work the equivalent of one-half of the workweek during the full school or academic year of nine months or more.

B. This Regulation shall not apply to teaching personnel and officials of academic rank at institutions of higher learning.

### 19-709.02. ANNUAL LEAVE EARNINGS

#### A. Computation

1. Employees who are in pay status one-half or more but not all of the workdays of the month shall earn annual leave for the full month. If they are in pay status for less than one-half the workdays, they shall earn no annual leave.

2. Employees shall earn annual leave while on annual leave, sick leave, or other authorized leave with pay. Employees shall not earn annual leave while on leave without pay.

3. Employees' annual leave earnings are computed based on the number of hours in the employee's workday.

4. Employees' annual leave earnings are based on the employee's leave accrual date. The leave accrual date reflects:

a. All State service in an FTE position, including part-time service, adjusted to reflect periods when there was a break in service;

b. All service as a certified employee in a permanent position of a school district of this State; and

c. At the discretion of the agency head or his designee, all service in any temporary capacity counted towards the employee's probationary period. (*Refer to Section 19-704.02 D. 2.*)

#### B. Rate of Earnings

1. Five-Day Workweek Schedule of 37.5 or 40 Hours Per Week

a. To determine the number of hours in a workday, divide the total number of hours an employee is regularly scheduled to work during a week by five (regardless of the number of days the employee actually reports to work).

b. Service of Ten Years or Less

Employees on a five-day workweek schedule with service time of less than ten years shall earn annual leave at the rate of 1¼ workdays per month of service in each calendar year. (See Chart #1 and Chart #2 below.)

c. Service of More Than Ten Years

Employees on a five-day per workweek schedule with State service time of more than ten years shall earn a bonus of 1¼ workdays of annual leave for each year of service over ten years. (See Chart #1 and Chart #2 below.)

## Chart #1

## Five Days, 37.5 Hours Per Workweek Schedule

(may be rounded to the nearest two decimal places)

<u>Years of Service</u>	<u>Earning Rate</u>	
	<u>Days Per Year</u>	<u>Hours Per Month</u>
1-10	15.00	9.375
11	16.25	10.156
12	17.50	10.937
13	18.75	11.718
14	20.00	12.500
15	21.25	13.281
16	22.50	14.062
17	23.75	14.843
18	25.00	15.624
19	26.25	16.406
20	27.50	17.187
21	28.75	17.968
22 & over	30.00	18.750

## Chart #2

## Five Days, 40 Hours Per Workweek Schedule

(may be rounded to the nearest two decimal places)

<u>Years of Service</u>	<u>Earning Rate</u>	
	<u>Days Per Year</u>	<u>Hours Per Month</u>
1-10	15.00	10.000
11	16.25	10.833
12	17.50	11.666
13	18.75	12.500
14	20.00	13.333
15	21.25	14.167
16	22.50	15.000
17	23.75	15.833
18	25.00	16.667
19	26.25	17.500
20	27.50	18.333
21	28.75	19.167
22 & over	30.00	20.000

## 2. Schedules Other Than a Five-Day Workweek of 37.5 or 40 Hours Per Week

All employees earn the number of days per year based on their years of service. However, the earning rate in hours per month varies according to the length of the workday. If the workday differs from eight hours, divide

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the number of hours in the workday by eight, then multiply this ratio by the earnings rate in the last column of Chart #2 above. Examples of such schedules could include:

a. Law enforcement employees who are regularly scheduled to work 43 hours per week. Forty-three hours divided by five equals a workday of 8.6 hours;

b. Fire protection employees who are regularly scheduled to work 53 hours per week. Fifty-three hours divided by five equals a workday of 10.6 hours;

c. Part-time employees who are regularly scheduled to work 20 hours per week. Twenty hours divided by five equals a workday of four hours; or

d. Full-time employees who are regularly scheduled to work 39 hours per week. Thirty-nine hours divided by five equals a workday of 7.8 hours.

### C. Maximum Accrual and Carryover

1. Employees shall be permitted to carryover from one calendar year to the next any unused annual leave up to a total accumulation of 45 workdays. During the calendar year, an employee may earn annual leave in excess of the 45 workdays; however, the employee may only carryover 45 days to the next calendar year.

2. An employee who changes from being full-time to part-time or from part-time to full-time, without a break in service, shall retain the annual leave hours previously earned. If this change results in the employee having a maximum accumulation in excess of 45 workdays as of the effective date of the change, the employee shall not forfeit the excess. The employee shall retain this excess leave which shall be the maximum amount the employee may carry over into future years. If the employee subsequently reduces the amount of such leave carried over, the reduced amount, if in excess of 45 workdays, shall become the employee's maximum carryover into future years. If the employee further reduces the amount of such leave carried over to 45 workdays or less, 45 days shall become the maximum amount of unused annual leave the employee may thereafter carryover. During the calendar year, an employee may earn annual leave in excess of the 45 workdays; however, the employee may only carryover 45 days to the next calendar year.

### 19-709.03. USING AND SCHEDULING ANNUAL LEAVE

A. Leave taken under this Section may qualify as Family and Medical Leave Act (FMLA) leave and, if so, will run concurrently.

### B. Scheduling Leave

1. To the degree possible, an employee's request for a specific period of annual leave shall be approved. Agencies may consider workloads and similar factors when reviewing the requests.

2. Agency approval is required for the specific periods the employee shall be on annual leave, to include beginning and ending dates and computation of total hours.

### C. Maximum Days Used Per Year

1. The maximum number of earned days of annual leave that may be used in any one calendar year shall not exceed 30 workdays.

### 2. Exception

a. For Family and Medical Leave Act or other disability related qualifying reasons, an agency may allow an employee who has used all eligible sick leave and 30 days of annual leave to use any remaining annual leave.

b. For emergency or extreme hardship conditions as referenced in Section 8-11-670 of the South Carolina Code of Laws, the agency head or designee may allow an employee, who has used all accumulated sick leave and thirty days of annual leave any remaining annual leave which he has accumulated. An employee may request review by the State Human Resources Director the denial of the use of annual leave under this provision as provided for in Section 8-11-670 of the South Carolina Code of Laws.

D. Increments for Use of Annual Leave

Use of annual leave shall be calculated at either the actual time or the smallest increment of leave an agency allows.

E. Holiday During Leave

When a holiday is observed by the agency while an employee is using annual leave, the day shall be considered a holiday, not a day of annual leave for the employee.

**19-709.04. TRANSFER FROM ONE STATE AGENCY TO ANOTHER**

A. An employee who moves from an FTE position to an FTE position within 15 calendar days following the last day worked (or on approved leave) at the transferring agency shall transfer his earned annual leave. When an employee transfers to an agency that has a different length workday in hours, his annual leave balance in hours shall be converted by dividing the number of hours the employee has accumulated by the receiving agency's workday hours to determine the new number of annual leave days the employee has accrued.

B. An employee who moves from a temporary grant or time-limited position to an FTE position within 15 calendar days following the last day worked (or on approved leave) at the transferring agency shall transfer his earned annual leave hours.

C. An employee who moves from an FTE position to a temporary grant or time-limited position within 15 calendar days following the last day worked (or on approved leave) at the transferring agency shall not transfer their earned annual leave hours.

D. When an employee transfers from a position in which he earns both sick and annual leave to a teaching position of academic rank at a State supported institution of higher learning, the employee shall be paid for earned annual leave according to Section 19-709.05.

E. When the employee with a maximum carryover in excess of 45 workdays transfers from one agency to another, the employee shall retain the higher maximum carryover at the receiving agency. If the employee subsequently reduces the amount of such leave carried over, the reduced amount, if in excess 45 workdays, shall become the employee's maximum carryover into future years. If the employee further reduces the amount of such leave carried over to 45 workdays or less, 45 days shall become the maximum amount of unused annual leave the employee may thereafter carryover. During the calendar year, the employee may earn annual leave in excess of the 45 workdays; however, the employee may only carryover 45 days to the next calendar year.

**19-709.05. PAYMENT UPON SEPARATION FROM EMPLOYMENT**

Upon separation from State employment, a lump sum payment will be made for unused annual leave, not to exceed 45 days, without deducting any earned leave taken during the calendar year in which the employee separates. If the employee has not experienced a break in service, the agency shall not pay out any unused annual leave. However, an employee who transfers or is reassigned to a teaching position or position of academic rank at an institution of higher learning, as referenced in Section 8-11-680 of the South Carolina Code of Laws, should

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be paid out for any unused annual leave. Upon the death of an employee while in active service, the estate of the deceased employee shall be entitled to the lump sum payment not to exceed 45 days.

Exception - Refer to Section 19-720.01 B. 2. (Exceptions).

### **19-709.06. RECORDS**

A. The agency shall maintain all annual leave records for each employee eligible for annual leave. Such records must include at least the following:

1. The annual leave accrual rate for each employee;
2. The number of annual leave hours earned and used during the current calendar year;
3. The number of annual leave hours carried forward from the previous calendar year, but not exceeding the maximum accrual authorized;
4. The number of hours in the employee's workweek and workday; and
5. The number of hours paid out upon separation.

### **19-710. SICK LEAVE**

#### **SCOPE AND PURPOSE**

This Regulation governs the sick leave policies for employees in FTE positions.

#### **19-710.01. ELIGIBILITY**

Sick leave shall be earned by and granted to:

- A. Full-time employees in FTE positions, and
- B. Part-time employees in FTE positions who are:
  1. Scheduled to work at least one-half the workweek of the agency on a 12-month basis, or
  2. Scheduled to work the equivalent of one-half of the workweek during the full school or academic year of nine months or more.

#### **19-710.02. SICK LEAVE EARNINGS**

##### **A. Computation**

1. Employees who are in pay status for at least one-half or more of the workdays of the month shall earn sick leave for the full month. If they are in pay status for less than one-half the workdays, they shall earn no sick leave.

2. Employees shall earn sick leave while on sick leave, annual leave, or other authorized leave with pay. Employees shall not earn sick leave while on leave without pay.

3. Employees' sick leave earnings are computed based on the number of hours in the employee's workday.

##### **B. Rate of Earnings**

### 1. Five-Day Workweek Schedule of 37.5 or 40 Hours Per Week

All employees in FTE positions shall earn sick leave beginning with the date of employment at the rate of 1¼ workdays per month of service or 15 days per year. To determine the number of hours in a workday, divide the total number of hours an employee is regularly scheduled to work during a week by five (regardless of the number of days the employee actually reported to work).

### 2. Schedules Other Than a Five-Day Workweek of 37.5 or 40 Hours Per Week

To calculate the sick leave earnings for employees working schedules other than a five-day workweek of 37.5 or 40 hours per week (including part-time, variable, and nonstandard work schedules), the agency must determine what a workday is for each such employee. To determine the number of hours in a workday, divide the total number of hours an employee is regularly scheduled to work during a week by five (regardless of the number of days the employee actually reported to work). Examples of such schedules could include:

a. Law enforcement employees who are regularly scheduled to work 43 hours per week. Forty-three hours divided by five equals a workday of 8.6 hours;

b. Fire protection employees who are regularly scheduled to work 53 hours per week. Fifty-three hours divided by five equals a workday of 10.6 hours;

c. Part-time employees who are regularly scheduled to work 20 hours per week. Twenty hours divided by five equals a workday of four hours; or

d. Full-time employees who are regularly scheduled to work 39 hours per week. Thirty-nine hours divided by five equals a workday of 7.8 hours.

### C. Maximum Accrual and Carryover

Full-time and part-time employees in FTE positions shall be permitted to earn up to 195 workdays. Full-time and part-time employees in FTE positions shall carryover from one calendar year to the next any unused earned sick leave up to a total maximum carryover of 180 workdays.

#### Exception:

An employee who changes from being full-time to part-time or from part-time to full-time, without a break in service, shall retain the sick leave hours previously earned. If this change results in the employee having a maximum accumulation in excess of 180 workdays, as of the effective date of the change, the employee shall not forfeit the excess. The employee shall retain this excess leave which shall be the maximum amount the employee may carry over into future years. If the employee subsequently reduces the amount of such leave carried over, the reduced amount, if in excess of 180 workdays, shall become the employee's maximum carryover into future years. If the employee further reduces the amount of such leave carried over to 180 workdays or less, 180 workdays shall become the maximum amount of unused sick leave the employee may thereafter carryover. During the calendar year, an employee may earn sick leave in excess of 180 workdays; however, an employee may only carry over 180 days into the next year.

### **19-710.03. ADDITIONAL SICK LEAVE MAY BE GRANTED**

A. An agency may advance up to 15 workdays of additional sick leave to an employee in extenuating circumstances who has exhausted all sick, annual and compensatory leave.

B. The agency may advance this leave only upon documentation from a health care provider that the employee is expected to return to work within that period of time.

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C. Upon return to work, the employee will have all earned sick leave applied to the leave deficit at the rate of 1¼ days per month (or if part-time, the monthly earning rate) until the deficit has been eliminated.

D. If an employee separates from employment before satisfying the leave deficit and returns to state employment, the leave deficit will need to be satisfied upon reemployment.

### 19-710.04. USING AND SCHEDULING SICK LEAVE

A. Leave taken under this Section may qualify as Family and Medical Leave Act (FMLA) leave and, if so, will run concurrently.

B. Reasons an employee shall be allowed to use sick leave are as follows:

1. Personal illness, injury, or disability that incapacitates the employee to perform duties of the position.  
[Note: In accordance with Section 8-11-110 of the South Carolina Code of Laws which recognizes alcoholism as a treatable illness, sick leave will be granted for the purpose of participating in public and private treatment and rehabilitation programs which have been approved by the South Carolina Department of Mental Health.];

2. Exposure to a contagious disease such that presence on duty could endanger the health of fellow employees;

3. Appointment for medical or dental examination or treatment when such appointment cannot reasonably be scheduled during nonwork hours;  
[Note: if possible, examination appointments must be approved in advance by the agency designee.]

4. Sickness during pregnancy or other temporary disabilities;  
[Note: If possible, the date on which sick leave for disability is to begin shall be at the request of the employee based on the determination and advice of a health care practitioner.]

5. Caring for ill members of immediate family;  
[Note: Employees earning sick leave as provided in Section 19-710 may not use more than ten days of sick leave annually to care for ill members of their immediate families. For purposes of this section, the employee's "immediate family" means the employee's spouse and children and the following relations to the employee or the spouse of the employee: mother, father, brother, sister, grandparent, legal guardian, and grandchildren.]

C. Verification

The use of sick leave shall be subject to verification. The agency designee may, before approving the use of sick leave, require the certificate of a health care practitioner verifying the need for sick leave and giving the inclusive dates.

D. Increments for Use of Sick Leave

Use of sick leave shall be calculated at either the actual time or in the smallest increments an agency will allow.

E. Use of Sick Leave Before Going on Leave Without Pay

In qualifying sick leave situations, the employee shall use all applicable sick leave before going on leave without pay unless the agency head or his designee grants an exception at the employee's request.

F. Holiday During Sick Leave

When a holiday is observed by the agency while an employee uses sick leave, the day shall be considered a holiday, not a day of sick leave for the employee.

#### **19-710.05. TRANSFER**

##### **A. Between State Agencies**

1. An employee who moves from an FTE position to an FTE position within 15 calendar days (or on approved leave days) from the transferring agency shall transfer his sick leave.

2. An employee who moves from a temporary grant or time-limited position to an FTE position within 15 calendar days (or on approved leave days) from the transferring agency shall transfer his sick leave.

3. An employee who moves from an FTE position to a temporary grant or time-limited position within 15 calendar days (or on approved leave days) from the transferring agency shall not transfer his sick leave.

##### **B. Between a State Agency and School District**

An employee of a State agency transferring to a school district of the State or a school district employee transferring to a State agency is permitted to transfer to and retain at his new employer all sick leave he earned at his former employer regardless of his employment status at the new employer.

#### **19-710.06. SEPARATION FROM EMPLOYMENT**

Upon separation from employment, an employee shall forfeit all earned sick leave.

A. Retirement - An employee who is a Class Two member of the South Carolina Retirement System or the Police Officer Retirement System shall receive service credit for no more than 90 days of his unused sick leave at no cost to the employee. The leave must be credited at a rate where 20 days of unused sick leave equals one month of service. This additional service credit may not be used to qualify for retirement.

B. Reduction in Force Rights - An employee who is reinstated within one year of the date of separation shall have his sick leave restored. (*Refer to Section 19-720.04 B. 4. d.*)

C. Up to Six Month Exception to Break in Service - An employee who has received prior approval for an extension to the 15-day break in service shall have his sick leave restored if transferred or appointed to another FTE position within the approved time period. (*Refer to Section 19-720.01 B. 2. (Exception).*)

#### **19-710.07. RECORDS**

The agency shall maintain all sick leave records for each employee eligible for sick leave.

#### **19-711. LEAVE TRANSFER PROGRAM**

##### **SCOPE AND PURPOSE**

This Regulation governs the manner in which employees in FTE positions may voluntarily donate sick or annual leave into a leave transfer pool for use by other employees, who have been approved as leave recipients under medical emergency circumstances.

##### **19-711.01. AGENCY RESPONSIBILITY**



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A. Each agency shall establish two separate leave transfer pool accounts, a sick leave transfer pool and an annual leave transfer pool.

### B. Records and Forms

Each agency shall maintain the following records:

#### 1. Donation Request Form - The Donation Request Form shall include:

- a. The employee's name;
- b. The employing agency;
- c. The employee's State title;
- d. The employee's hourly rate of pay;
- e. The number of days/hours of the leave donor's earned sick or annual leave;
- f. The number of days/hours of sick or annual leave the employee wishes to donate to the appropriate leave transfer pool;
- g. The date of the donation; and
- h. The leave donor's signature.

#### 2. Recipient Request Form - The Recipient Request Form shall include:

- a. The employee's name;
- b. The employing agency;
- c. The employee's State title;
- d. The employee's hourly rate of pay; and
- e. A brief description of the nature, severity, and anticipated duration of the medical, family, or other hardship situation affecting the employee.

#### 3. Leave Restoration Form - The Leave Restoration Form shall include:

- a. The name of the leave recipient;
- b. The type of leave transferred (sick or annual);
- c. The amount of transferred leave used;
- d. The date the leave recipient's medical emergency or employment terminates; and
- e. The amount of transferred leave (sick or annual) being restored to the respective pool.

## 19-711.02. ANNUAL REPORTING

Each agency having any donation or approved requests for leave transfer in a calendar year shall submit the following information to the DSHR:

A. Sick Leave - Total hours and cost of:

1. Sick leave donated;
2. Sick leave used by recipient(s); and
3. Sick leave restored, if any.

B. Annual Leave - Total hours and cost of:

1. Annual leave donated;
2. Annual leave used by recipient(s); and
3. Annual leave restored, if any.

C. Any additional information requested by DSHR needed to evaluate the desirability, feasibility, and cost of the leave transfer program.

#### **19-711.03. ELIGIBILITY TO DONATE**

A. An employee donating sick or annual leave to either the sick or annual leave transfer pool must do so prior to the end of the calendar year.

B. An employee may donate no more than one-half of the sick or annual leave he earns within a calendar year to the appropriate pool leave account for that calendar year.

C. An employee's leave, once transferred to a pool account, must not be restored or returned to the leave donor.

D. Sick Leave - An employee with more than 15 days in his sick leave account may transfer sick leave to the agency's sick leave pool if he retains a minimum of 15 days in his own sick leave account. An employee with less than 15 days in his sick leave account may not transfer any sick leave to the agency's sick leave pool.

E. Annual Leave - An employee may voluntarily request by completing the employing agency's Donation Request Form, that a specified number of hours of his earned annual leave be transferred from his annual leave account to his employing agency's annual leave transfer pool.

#### **19-711.04. REQUEST FOR LEAVE**

A. An employee with a medical emergency may request sick or annual leave from the appropriate pool account by completing the employing agency's Recipient Request Form. While there is no limit to the number of separate requests that an employee may submit to the employing agency, each separate request shall be limited to no more than 30 workdays.

B. An employee must have exhausted all available leave to qualify for the leave transfer program.

C. An employee must have been in leave without pay for at least 30 working days or documentation must certify a medical emergency will result in an employee being in leave without pay status for 30 working days.

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### **19-711.05. LEAVE APPROVAL**

Under guidelines established by the Department of Administration, the agency head of the employing agency may, upon receiving a completed request, review all necessary information and approve recipients from within the agency to participate in the leave transfer program. Unless the personal emergency involves a medical condition affecting the leave recipients, the employing agency may consider the likely impact on morale and efficiency within the agency in approving a leave recipient to use transferred leave.

### **19-711.06. NO ADMINISTRATIVE OR JUDICIAL APPEAL**

The decisions of the agency head of the employing agency are final, and there is no administrative or judicial appeal of the decisions.

### **19-711.07. USE OF SICK OR ANNUAL LEAVE**

A. Leave taken under this Section may qualify for the Family Medical Leave Act (FMLA) and, if so, will run concurrently.

B. Under guidelines established by the Department of Administration, the employing agency may transfer all or any portion of the sick leave in the pool account to the sick leave account of the leave recipient, and all or any portion of the annual leave in the pool account to the annual leave account of the leave recipient.

C. Upon approval of a request, an employee may use sick or annual leave from the appropriate pool account in the same manner and for the same purposes as if the employee had earned the leave in the manner provided by law.

D. Sick or annual leave earned by the leave recipient must be used before using any leave from a leave transfer pool.

E. Sick or annual leave transferred under this program may be substituted retroactively for periods of leave without pay or used to liquidate indebtedness for advanced sick leave.

### **19-711.08. WHEN MEDICAL EMERGENCY TERMINATES**

A. The medical emergency affecting a leave recipient terminates when either the employing agency determines that the medical emergency no longer exists or either the leave recipient separates from employment.

B. The employing agency shall monitor continuously the status of the medical emergency affecting the leave recipient and establish procedures to ensure that the leave recipient is not permitted to receive, or use transferred sick or annual leave from a pool account after the personal emergency terminates.

C. When the medical emergency terminates, the employing agency may not grant further requests for transfer of leave to the leave recipient's leave account. When the medical emergency affecting a leave recipient terminates, any transferred sick or annual leave remaining must be restored to the appropriate pool account by completing a Leave Restoration Form.

### **19-711.09. SEPARATION FROM EMPLOYMENT**

Transferred sick or annual leave from a pool account remaining when the leave recipient separates from employment must be restored to the appropriate pool account by the completion of a Leave Restoration Form. Upon separation from employment, transferred leave from a pool account must not be transferred to another employee, included in a lump sum payment for earned leave, or included in the leave recipient's total service for retirement computation purposes.

## 19-712. OTHER LEAVE PROGRAMS

### SCOPE AND PURPOSE

This Regulation governs the leave programs, other than annual and sick leave and holidays.

### 19.712.01. OTHER LEAVE TYPES

Leave taken under this Section may qualify as Family and Medical Leave Act (FMLA) leave and, if so, will run concurrently.

#### A. Administrative Leave

State employees in full-time equivalent (FTE) positions who are physically attacked while in the performance of official duties and suffer bodily harm as a result of the attack must be placed on administrative leave with pay by their employers rather than sick leave. The period of administrative leave for each incident may not exceed 180 calendar days. Denial of the use of administrative leave by the agency will be grounds for review by the Division of State Human Resources (DSHR) upon request of the employee. Administrative review by DSHR will be final.

#### B. American Red Cross Certified Disaster Service Leave

A state employee who is a certified disaster service volunteer for the American Red Cross may use up to 10 days of paid leave in a calendar year to participate in specialized disaster relief services with the approval of the agency designee.

#### C. Blood Drive and Donation Leave

1. Agencies may periodically arrange volunteer blood drives for their employees. The blood drives may be held at the times and places as may be determined by the agency head. The agency's employees are permitted to participate in the blood drive during their work hours without using sick and annual leave.

2. An employee desiring to donate blood at a time, other than an agency arranged volunteer blood drive, must be excused from work by his agency during the employee's regular work hours for the purpose of making the donation without prejudice to the employee and no leave or makeup time may be required. Any employee desiring to donate blood as provided in Section 8-11-175 of the South Carolina Code of Laws shall notify his agency of the scheduled donation and the amount of time needed for the donation as far in advance as may be practicable. The agency may deny the employee's request for time to donate if the absence of the employee would create an extraordinary burden on the agency. In considering the employee's request, the agency shall take into consideration such factors as the necessity and type of blood donation, and any other factor the agency considers appropriate. The agency may, as condition of approving the request, require the employee to provide documentation of the donation.

#### D. Bone Marrow Donor Leave

All employees who works an average of 20 hours or more a week and who seeks to undergo a medical procedure to donate bone marrow may be granted bone marrow donor leave with pay. The total amount of paid leave may not exceed 40 work hours unless a longer length of time is approved by the agency head. Such leave may require verification by a health care practitioner of the purpose and length of each request. If a medical determination finds that the employee does not qualify as a bone marrow donor, the paid leave of absence granted to the employee before that medical determination is not forfeited. Pursuant to Section 44-43-80 of the South Carolina Code of Laws, as amended, all employees are covered under this section.

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### E. Court Leave

#### 1. Jury Duty (With Pay)

a. An employee, who is summoned as a member of a jury panel, shall be granted court leave with pay. Any jury fees and travel payment shall be retained by the employee. This court leave with pay shall not apply to agencies whose employees are exempt from jury duty by law.

b. An employee, who is excused from jury duty and was not required to be at court the number of hours equal to the employee's workday, is required to return to the job according to arrangements between the employee and the agency designee. The employee must be on authorized leave for any time the employee is excused from jury duty and does not return to work.

c. An employee who is summoned to jury duty will be required to work on any given day only the number of hours that equal the employee's work schedule, minus the hours required to be at court.

#### 2. Subpoenaed as a Witness (With Pay)

An employee, who is subpoenaed as a witness and who will not receive any personal gain from the outcome of the litigation, shall be entitled to court leave with pay for those hours required for the subpoena and may retain any witness fee and travel expenses.

3. An employee, who is victim of or witness to a crime and must attend court in relation to the case or in order to obtain an Order of Protection or restraining order, shall receive court leave with pay.

#### 4. Exceptions

a. An employee engaged in personal litigation is not eligible for court leave with pay but may be granted annual leave or leave without pay with appropriate authorization.

b. When an employee is subpoenaed to represent an agency as a witness or defendant, his appearance is considered work time. The employee shall be reimbursed for any meals, lodging, and travel expenses that may be incurred according to the rules and regulations as provided by the Office of the Comptroller General.

c. When an employee attends, in an official capacity, a mediation or mediation-arbitration conference, his attendance is considered a part of the employee's job assignment.

d. When an employee appears as a witness or in any other official capacity in a hearing before the State Employee Grievance Committee, his appearance is considered a part of the employee's job assignment.

### F. Death in Immediate Family Leave

1. An employee, upon request, shall be granted up to three consecutive workdays of leave with pay on the death of any member of the employee's immediate family. Immediate family is defined as the spouse, great-grandparents, grandparents, parents, legal guardians, brothers, spouse of brothers, sisters, spouse of sisters, children, spouse of children, grandchildren, great-grandchildren of either the employee or the spouse.

2. The agency may request that an employee requesting leave for a death in the immediate family provide a statement to the appropriate authority listing the name of the deceased and the relationship to the deceased.

### G. Extended Disability Leave

Under the Americans with Disabilities Act (ADA), the Americans with Disabilities Act Amendments Act (ADAAA), and other applicable law, certain extended impairments may be protected as disabilities and may require reasonable accommodation. In certain cases, the use of leave may be considered a reasonable accommodation. Determinations regarding reasonable accommodations should be made on a case-by-case basis as dictated by the circumstances.

The agency shall require, prior to approval of leave as a reasonable accommodation, certification by the health care practitioner to a reasonable degree of medical certainty to include at a minimum: (a) the date on which the disability commenced; (b) the probable duration of the condition and a probable return date; and (c) appropriate medical facts within the knowledge of the health care practitioner regarding the condition and any work limitations. Dates set forth in the health care practitioner's certificate may be amended. The agency may require additional documentation from the health care practitioner issuing the certificate or may secure additional medical opinions from other health care practitioners. If an employee's health care practitioner or the employee identifies a disability as long-term, the agency may suggest to the employee to contact the Public Employee Benefit Authority (PEBA) as soon as possible to evaluate eligibility for any appropriate benefits, such as insurance or retirement, if the employee believes it would be appropriate.

#### H. Family and Medical Leave Guidelines

For more detailed information, consult the Family and Medical Leave Act (FMLA) and relevant federal regulations. By interpretation of the United States Department of Labor, State government is considered to be one employer for the purpose of determining FMLA leave.

##### 1. Eligibility and Reasons for FMLA Leave

a. Family Medical Leave Act leave shall be granted to any employee who has worked for the State at least 12 months, and who has worked at least 1,250 hours (defined as FLSA compensable hours of work) during the 12-month period prior to the request for FMLA leave, including "on-call" hours. The required total of 12 months of employment need not be consecutive. An agency can go back 7 years prior to the date of the need for leave to determine if the employee worked a total of 12 months with state government. An agency has the ability to go beyond 7 years if an employee left state employment due to National Guard or Reserve Military obligations or a written agreement reflecting an employer's intention to rehire after a break.

In order to determine if an exempt employee meets the 1,250 hours of service, work records may be kept.

b. An eligible employee shall be granted up to a total of 12 weeks of FMLA leave, in each calendar year, for any of the following reasons:

- (1) For the birth of a son or daughter and to care for that child;
- (2) For placement of a son or daughter for adoption or foster care with the employee;
- (3) For caring of the employee's spouse, son, daughter, or parent with a serious health condition; and
- (4) For a serious health condition that makes the employee unable to perform the functions of the employee's job.
- (5) For qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or called to active duty status as a member for the National Guard or Reserves in support of a contingency operation. Qualifying exigencies can include: 1) short notice deployment; 2) military events and related activities; 3) childcare and school activities; 4) financial and legal arrangements; 5) counseling; 6) rest and recuperation; 7) post- deployment activities; and 8) additional activities not encompassed in other categories but agreed by the agency and the employee.

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Note: Reasons (1) and (2) for leave expires 12 months after the date of the birth or placement.

c. Under the military caregiver leave provisions, an eligible employee who is a spouse, son, daughter, parent, or next of kin of a current member of the Armed Forces, including a member of the National Guard or Reserves, with a serious injury or illness may be able to take up to a total of 26 workweeks in a single 12-month period to care for the service member.

### 2. Scheduling FMLA Leave

An eligible employee requesting FMLA leave must give 30 days advance notice to the employing agency of the need to take FMLA leave when the need for leave is foreseeable. When the need for leave is not foreseeable, such notice must be given as soon as practical. The use of FMLA leave shall be subject to verification. The agency may require documentation or certification from a health care provider supporting the need for FMLA leave for a serious health condition. Agencies may also require documentation for certification of serious health condition of a spouse, son, or daughter, a qualifying exigency or to confirm familial relationships.

### 3. Use of FMLA Leave

The agency is responsible for declaring leave as FMLA leave based on information provided by the employee.

a. When the agency designates leave as FMLA leave, it must notify the employee. No leave may be designated as FMLA leave after the leave has ended, except as provided for under the FMLA.

b. Use of FMLA leave shall be calculated by either the actual time or in the smallest amount of increments an agency will allow.

c. The agency should declare any leave taken that qualifies as FMLA leave. The FMLA leave should run concurrently with any other leave, and the leave should be charged against the appropriate leave balances.

### 4. Use of Paid and Unpaid Leave

Generally, FMLA leave is unpaid; however,

a. An eligible employee will be required to substitute his accrued sick leave, parental leave or adoption leave for unpaid FMLA leave when the FMLA leave request qualifies for sick leave, parental leave or adoption leave usage.

b. An eligible employee may elect to substitute accrued annual leave, compensatory time and holiday compensatory time for unpaid FMLA leave.

### 5. FMLA Leave Record

A leave record shall be maintained by the employing agency for each employee subject to the provisions of the FMLA. Such record shall:

a. Reflect the maximum FMLA leave allowance (12 weeks in a calendar year) and charges in terms of hours.

b. Indicate the number of FMLA leave hours used in the current calendar year.

c. Indicate the number of hours in the employee's established workweek.

### 6. Transfer of FMLA Leave

For an eligible employee who transfers from one agency to another, the transferring agency is responsible for transferring the employee's FMLA leave records in that calendar year to the receiving agency.

#### I. Hazardous Weather and Emergency Leave

When the Governor declares a state of emergency or orders all or some state offices closed due to hazardous weather conditions, the Governor may issue an executive order authorizing up to five days of paid leave for those employees who did not work due to the state of emergency or hazardous weather.

When the Governor does not provide State employees with paid leave, an employee who does not report to work, who reports late to work, or is dismissed early from work due to a state of emergency or hazardous weather conditions shall use annual leave, compensatory time or leave without pay to cover the hours scheduled but not worked. Agencies must also give employees the option to make up the hours at a time set by the agency.

#### J. Leave of Absence

To grant any leave of absence with or without pay, the agency must approve the leave of absence. An employee who is granted leave of absence with or without pay shall be:

1. An employee of the State while on such leave; and
2. Returned to the same position, or one in a comparable pay band for which the employee is qualified.

Any leave of absence must be approved in advance except in case of medical or personal emergencies. These situations must be justified to the agency head or his designee for approval.

#### K. Military Leave (Cross reference FMLA. Refer to Section 19-712.01 L. on qualifying exigencies.)

##### 1. Short Term Military Training

All officers and employees of this State or a political subdivision of this State, who are either enlisted or commissioned members of the South Carolina National Guard, the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, or the United States Coast Guard Reserve are entitled to leaves of absence from their respective duties without loss of pay, time, or efficiency rating, for one or more periods not exceeding an aggregate of 15 regularly scheduled workdays in any one year during which they may be engaged in training or any other duties ordered by the Governor, the Department of Defense, the Department of the Army, the Department of the Air Force, the Department of the Navy, the Department of the Treasury, or any other department or agency of the government of the United States having authority to issue lawful orders requiring military service. Saturdays, Sundays, and State holidays may not be included in the 15-day aggregate unless the particular Saturday, Sunday, or holiday to be included is a regularly scheduled workday for the officer or employee involved. In the event any such person is called upon to serve during an emergency, he is entitled to such leave of absence for a period not exceeding 30 additional days. Any one year means either a calendar year or, in the case of members required to perform active duty for training or other duties within or on a fiscal year basis, the fiscal year of the National Guard or reserve component issuing the orders.

A state employee in a full-time position who serves on active duty in a combat zone and who has exhausted all available leave for military purposes is entitled to receive up to thirty additional workdays of military leave in any one year.

##### 2. Long Term Military Leave of Absence



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Every employee of the State or any political subdivision thereof who, has been, or shall be commissioned, enlisted, or selected for service in the Armed Forces of the United States (excluding short term training) shall, so long as the requirements and regulations of the Armed Forces shall prevent his return to his civil employment for a period of 90 days thereafter, but in no event for a period longer than five years from the date of entry into the Armed Forces of the United States, be entitled to leave of absence from his duties as an employee of the State or any political subdivision thereof, without loss of seniority or efficiency or register ratings. The word "employee" as used herein shall not be construed to mean an officer or official elected or appointed to a term pursuant to a statute or the Constitution of this State.

### L. Organ Donor Leave

1. All officers and employees of this State or a political subdivision of this State who wish to be an organ donor and who accrue annual or sick leave as part of their employment are entitled to leaves of absence from their respective duties without loss of pay, time, leave, or efficiency rating for one or more periods not exceeding an aggregate of thirty regularly scheduled workdays in any one calendar year during which they may engage in the donation of their organs. Saturdays, Sundays, and state holidays may not be included in the thirty-day aggregate unless the particular Saturday, Sunday, or holiday to be included is a regularly scheduled workday for the officer or employee involved.

2. The officer or employee must show documentation from the attending physician of the proposed organ donation before leave is approved that confirms that the employee is the donor.

### M. Paid Parental Leave

Eligibility determinations are made as of the date to the birth, adoption, or foster care placement.

An eligible state employee shall receive no more than one occurrence of six or two weeks of paid parental leave for any twelve-month period, even if more than one qualifying event occurs.

If the leave is not used by the eligible employee before the end of the twelve-month period after the birth, adoption or foster placement, such leave does not accumulate for subsequent use. Paid parental leave may not be donated. Any leave remaining at the end of the twelve-month period or at separation of employment is forfeited.

Paid parental leave must run concurrently with leave taken pursuant to the Family Medical Leave Act and any other unpaid leave to which the eligible state employee may be entitled to as a result of the qualifying event.

Employees do not have to exhaust all other forms of leave before being eligible to take paid parental leave. Eligible state employees shall accrue annual and sick leave at the normal rate while on this leave, if applicable.

If both parents are eligible state employees, paid parental leave may be taken concurrently, consecutively, or at a different time as the other eligible state employee. No child may have more than two parents eligible for paid parental leave.

#### 1. Adoption Leave

a. Employees occupying all or part of an FTE position and who are primarily responsible furnishing the care and nurture of their child under the age of 18 legally placed for adoption on or after October 1, 2022, are entitled to six weeks of paid parental leave.

b. Employees occupying all or part of an FTE position and who are not primarily responsible for finishing the care and nurture of the child under the age of 18 legally placed for adoption on or after October 1, 2022, are entitled to two weeks of paid parental leave.

c. The entitlement to parental leave expires at the end of the twelve-month period beginning on the date of the original placement.

d. Days of parental leave for adoption must be taken consecutively.

## 2. Birth of a Child

a. Employees occupying all or part of an FTE position and who give birth to a child on or after October 1, 2022, are entitled to six weeks of paid parental leave.

b. Employees occupying all or part of a position and whose co-parent gives birth to a child are entitled to receive two weeks of parental leave.

c. The entitlement to parental leave expires at the end of the twelve-month period beginning on the date of the birth.

d. Days of parental leave for the birth of a child must be taken consecutively.

## 3. Foster Care

a. Employees occupying all or part of an FTE positions and who foster a child under the age of 18 in state custody are entitled to receive two weeks of paid parental leave.

b. The entitlement to parental leave expires at the end of the twelve-month period beginning on the date of placement of the child.

c. Foster parents may request and receive approval for parental leave to be taken in nonconsecutive one-week time periods.

## N. Sabbatical Leave

When provided in statute, an institution of higher learning may establish a policy for a leave of absence for a sabbatical for academic personnel.

## O. State Employee Grievances and Appeals Attendance

Refer to Section 19-712.01 F.4. c. and d.

## P. Voting Leave

There is no state or federal law mandating that employers give time off to employees to vote. Agencies have discretion to authorize employees up to two hours of leave with pay for extenuating circumstances that prohibit employees from voting when the polls are open. For example, when an employee is scheduled to work a twelve-hour shift on election day or is assigned to a work location too far away from the employee's residence as to preclude voting outside work hours. To work at the polls during elections, an employee must be on authorized leave.

## Q. Volunteer Work

Time spent as a volunteer is not included in hours worked. An employee who performs hours of service for a public agency for civic, charitable, or humanitarian reasons, without promise, expectation or receipt of compensation for services rendered, is considered to be a volunteer during such hours. An employee shall not be considered a volunteer if the employee is otherwise employed by the same public agency to perform the same

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type of servicers as those for which the employee proposes to volunteer. An employee may be paid expenses, reasonable benefits, a nominal fee, or any combinations thereof, for their service without losing status as volunteers. Determining if the receipt of expenses, benefits or fees would result in loss of volunteer status is a case-by-case analysis based on the total amount of expenses, benefits, and fees in the context of the economic realities of the situation.

### R. Workers' Compensation Leave

1. If there is an accidental injury arising out of and in the course of employment with the State, which is covered under Workers' Compensation, an employee who is not eligible for or who has exhausted his paid administrative leave, shall make an election to use either earned leave time (sick or annual or both) or Workers' Compensation benefits awarded in accordance with Title 42 of the South Carolina Code of Laws.

2. The employee shall make an election under one of the following options:

a. To use sick leave, annual leave, or both. When earned leave is exhausted before the employee can return to work, the employee shall be entitled to Workers' Compensation benefits at the time leave is exhausted;

b. To use Workers' Compensation benefits awarded in accordance with Title 42 of the South Carolina Code of Laws; or

c. To use sick leave, annual leave, or both on a prorated basis in conjunction with Workers' Compensation benefits according to the formula approved by the Department of Administration.

3. Before the election is made, the effect of each available option on the employee's future leave earnings must be explained to the employee by the employing agency. The election must be in writing and signed by the employee and the person who explains the options. The election of the employee is irrevocable as to each individual incident.

4. Regardless of which option an employee elects, he would continue to be eligible for payment of medical costs provided by the State Accident Fund.

### 19-712.02. OTHER LEAVE RECORDS

A. The agency shall maintain all leave records for each employee eligible for such leave. Such records must include the number of leave hours used during the current calendar year.

### 19-713. DUAL EMPLOYMENT

#### SCOPE AND PURPOSE

This Regulation governs how employees in FTE positions may accept additional temporary, part-time employment with the same or another agency.

#### 19-713.01. STATEMENTS OF POLICY

##### A. General Provisions

1. In accordance with this Regulation, agencies may develop internal dual employment policies.

2. Dual employment shall be limited in duration to the specific time frame approved which cannot exceed 12 months.

3. The practice of dual employment should not be used to provide higher continuing salaries than those approved by the Department of Administration. An employee engaged in dual employment shall satisfy the requirements of the established hours of work for the primary agency.

4. No agency head may be dually employed by another agency or institution of higher education without prior approval by the Agency Head Salary Commission and the Department of Administration.

#### B. Approval of Dual Employment

1. The agency heads or their designees of the primary and secondary agencies are responsible for approving dual employment requests prior to the beginning of the dual employment relationship.

2. Because the secondary agency is responsible for coordinating dual employment arrangements, the secondary agency will coordinate the approval and any modifications of the dual employment request with the primary agency.

3. The primary agency should process dual employment requests in a timely manner.

4. Dual Employment within the same agency must be approved by the Division of State Human Resources prior to implementation.

#### C. Scheduling Dual Employment

##### 1. Dual Employment Between Two Agencies

Ordinarily, an employee's work schedule with the primary agency should not be altered or revised to provide time to perform dual employment duties for the secondary agency. However, an employee may be permitted to use annual leave or leave without pay to provide services during working hours for a secondary agency and may receive compensation from the secondary agency for services performed during the period of leave.

##### 2. Dual Employment Within an Agency

An employee who performs services during other than normally scheduled hours of work for his primary agency may be considered to be performing dual employment and be paid additional compensation, if such services constitute independent, additional job duties from those of the employee's primary duties within the agency. No employee shall receive any additional compensation from the primary agency while in a leave with pay status to include all designated State holidays, annual leave, and compensatory time. Dual employment within the same agency should only exist when extraordinary circumstances exist based on the agency's business needs and must be approved by the Division of State Human Resources.

#### D. Compensation for Dual Employment

1. No compensation for dual employment shall be paid to an employee prior to the approval of a dual employment agreement.

2. Both the primary agency and the secondary agency must comply with the provisions of the Fair Labor Standards Act (FLSA).

3. Compensation for dual employment will be determined by the secondary agency; however, the maximum compensation that an employee will be authorized to receive for dual employment in a fiscal year shall not exceed 30% of the employee's annualized salary with the employing agency for that fiscal year. The primary agency is responsible for ensuring that dual employment payments made to its employees within one fiscal year

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do not exceed the 30% limitation. The Division of State Human Resources (DSHR) is authorized to approve exceptions to the 30% limitation based on written justification submitted by the agency.

4. Payment of dual employment compensation shall be made in a timely manner. The secondary agency must make payment of funds approved for and earned under dual employment within 45 days of the beginning of the employment.

5. No employee shall be eligible for any additional fringe benefits as a result of dual employment, including but not limited to annual leave, sick leave, military leave, State insurance, and holidays. However, dual employment compensation shall be subject to such tax and retirement deductions as required.

### E. Dual Employment Recordkeeping

1. All dual employment requests must be in writing and contain the following information:

a. Name of secondary agency;

b. Description of services to be performed, beginning and ending dates of the dual employment, hours of work, and the FLSA status of the work to be performed for the secondary agency;

c. Name of primary agency;

d. Name of employee, State title of the employee's position, the FLSA status of the employee's position at the primary agency, present annualized salary of employee, and scheduled hours of work at the primary agency;

e. Amount and terms of compensation, if applicable; and

f. Signature of the agency heads or their designees, of both the secondary and the primary agencies, authorizing the dual employment as well as the signature of the employee.

2. For each dual employment arrangement, both the primary and secondary agency must maintain the written dual employment request. When the dual employment is within the same agency, that agency must maintain a written dual employment request for each dual employment arrangement.

## 19-714. GOVERNMENT EMPLOYEES INTERCHANGE PROGRAM

### SCOPE AND PURPOSE

This Regulation governs the authority of DSHR for administering an interchange program for government employees in FTE positions to facilitate short term assignments between or among federal, state, or local governments.

#### 19-714.01. STATEMENTS OF POLICY

A. The Department of Administration has delegated to the State Human Resources Director the authority to administer an Interchange of Government Employees Program as provided in Section 8-12-60 of the South Carolina Code of Laws.

B. Agencies should refer to the Government Employees Interchange Program guidelines developed by DSHR for instructions on preparing an interchange agreement.

## 19-715. EMPLOYEE PERFORMANCE EVALUATION SYSTEMS

## SCOPE AND PURPOSE

This Regulation governs the establishment and administration of employee performance evaluation systems for employees.

### 19-715.01. STATEMENTS OF POLICY

A. The Division of State Human Resources (DSHR) shall develop an EPMS model policy to assist an agency in its policy development. The Division of State Human Resources must review and approve each agency's EPMS policy which includes a Substandard Performance process.

B. Each agency shall develop an Employee Performance Management System that functions as an effective management tool within the agency, supports continuous communication between supervisors and employees, and provides a sound process for the evaluation of the performance and productivity of its employees.

C. Teaching and research faculty, professional librarians, academic administrators, and all other persons holding faculty appointments at post-secondary educational institutions, including any branch campuses, shall not be covered by these Regulations but shall be governed by Section 8-17-380 of the South Carolina Code of Laws.

D. An employee or an employee whose position is exempt from the State Employee Grievance Procedure Act is also exempt from the Employee Performance Management System. However, these employees may be given annual performance evaluations.

E. The State Human Resources Director shall have the authority to make exceptions to these Regulations consistent with federal, State and local laws.

### 19-715.02. ESTABLISHING AND MAINTAINING PERFORMANCE REVIEW DATES

A. A performance review date is the first day which marks the beginning of a new review period. If an employee does not receive a performance evaluation prior to the performance review date, the employee shall receive a "meets performance requirements" rating by default.

B. In Probationary Status (*Refer to Section 19-704.*)

1. Upon initial employment or reemployment, the performance review date shall be established as:

- a. Twelve months from the date of an initial employment or reemployment;
- b. The academic year for instructional personnel; or
- c. Not more than two full academic years duration for faculty at State technical colleges.

2. The performance review date for a probationary employee who is promoted, demoted, reclassified, experiences an unclassified State title change, or is reassigned or transferred to a new class or unclassified State title shall be established as:

a. Twelve months from the date of the promotion, demotion, reclassification, or reassignment or transfer to a new class or unclassified State title change for non-instructional personnel;

b. The academic year duration from the date of the promotion, demotion, reclassification, or reassignment or transfer to a new class or unclassified State title for teachers; or

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c. Not more than two full academic years duration from the date of the promotion, demotion, unclassified State title change, or reassignment or transfer to another unclassified State title for faculty at State technical colleges.

3. Exception - At the discretion of the agency head or his designee, up to six months of continuous satisfactory service in the previous class or unclassified State title may be counted toward the probationary period in the new class or unclassified State title which would result in a reduction in the length of the employee's performance review period.

### C. In Trial Status (*Refer to Section 19-704.*)

1. A covered employee who is promoted, demoted, reclassified, reassigned, or transferred to a position or experiences an unclassified State title change in which he has not held permanent status in the class or unclassified State title shall have the performance review date reestablished six months from the date of the action. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period.

2. An employee who is in a trial status and has had the trial period extended shall have the performance review date advanced up to 90 calendar days for the time period such extension is in effect. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period.

3. Exception - An employee who is promoted and, prior to attaining permanent status in the class with a higher State salary range, or unclassified State title having a higher State salary range or higher level job duties or responsibilities, is demoted to the same class or unclassified State title from which promoted, shall retain the original performance review date established in the class with a lower State salary range, or unclassified State title having a lower State salary range or lower level job duties or responsibilities. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period.

### D. Covered Employees with Permanent Status in the Class or Unclassified State Title

If a covered employee with permanent status in the class or unclassified State title is promoted, demoted, reclassified; experiences an unclassified State title change; or is reassigned or transferred to a new class or unclassified State title in which the employee has previously completed a probationary or trial period, the employee retains permanent status in the class or unclassified State title and is not placed in a probationary or trial status. Instead, the employee's performance review date is reestablished six months from the date of the promotion, demotion, reclassification, reassignment, or transfer.

### E. A covered employee's performance review date shall be changed for the following reasons:

1. If an employee is on approved leave with or without pay for more than 30 consecutive workdays, the employee's performance review date may be advanced up to 90 days. If an employee does not return to work by the advanced review date, the employee shall receive a successful by default rating and the review date shall be re-established based on policy.

2. An employee who receives a "Performance Improvement Plan," may have the performance review date advanced to coincide with the "Performance Improvement Plan" dates.

3. An employee's performance review date may be adjusted due to promotions, demotions, reclassifications, reassignments, transfers, or unclassified State title changes, as provided in Section 19-715. Exception: This paragraph does not apply unless the employee is serving a trial period at the time this version of the Regulations becomes effective.

4. An employee who transfers to a position in the same class in another agency or is reassigned to a position in the same class and agency within six months or less of his review date shall have the performance review date advanced six months from the date of the transfer or reassignment. Exception: This paragraph does not apply unless the employee is serving a trial period at the time this version of the Regulations becomes effective.

5. An employee's performance review date may be adjusted when an agency adopts a universal performance review date in its written EPMS policy.

6. An employee, who is promoted or reclassified upward, and prior to attaining permanent status in the class with a higher State salary range or in the unclassified State title having a higher State salary range or higher level of job duties or responsibilities, and is demoted or reclassified downward to the same class or unclassified State title from which promoted or reclassified upward, shall retain the original performance review date established in the class with a lower State salary range or unclassified State title having a lower State salary range or lower level of job duties or responsibilities. Exception: This paragraph does not apply unless the employee is serving a trial period at the time this version of the Regulations becomes effective.

F. A covered employee's performance review date shall not be changed for the following reasons:

1. When a class is reallocated, an employee in that class shall not have the performance review date reestablished.

2. An employee who receives an in-band increase or decrease within the current class shall not have the performance review date reestablished.

### **19-715.03. ESTABLISHING AND MAINTAINING PERFORMANCE REVIEW DATES FOR EMPLOYEES IN THE EXECUTIVE COMPENSATION SYSTEM**

A. For Employees Covered by the State Employee Grievance Procedure Act

Upon completion of a probationary or trial period, the performance review date of a covered employee in the Executive Compensation System shall be reestablished on July 1. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period.

B. Employees Exempt From Coverage by the State Employee Grievance Procedure Act

Annual performance evaluations shall be completed by July 1 for employees in the Executive Compensation System who are exempt from coverage by the State Employee Grievance Procedure Act. Such employees do not serve a probationary period or a trial period.

C. Exception – The performance review date for the above categories of employees shall be July 1, unless the agency adopts a universal performance review date in its written EPMS policy.

### **19-715.04. ESTABLISHING AND MAINTAINING PERFORMANCE REVIEW DATES FOR AGENCY HEADS**

Annual performance evaluations shall be completed by July 1 for agency heads.

## **19-716. STAFF DEVELOPMENT AND TRAINING**

### **SCOPE AND PURPOSE**



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This Regulation governs staff development and training programs for agencies' employees but does not affect sabbatical leave for academic personnel.

### 19-716.01. STATEMENTS OF POLICY

A. An agency may sponsor training for employees to improve or secure those skills necessary for the efficient and effective operations of the agency and to ensure uniformity in the administration of staff development and training programs throughout the State service.

B. The agency head or his designee shall be responsible for the administration of staff development and training within the agency.

### 19-716.02. EDUCATIONAL LEAVE

An employee is encouraged to schedule classes during off-duty hours, whenever possible. When a class cannot be scheduled during off-duty hours, the agency may adjust the employee's work schedule, if doing so will not interfere with normal efficient operations of the agency. When a class cannot be scheduled during off-duty hours, and the agency does not adjust the work schedule of an employee, at the discretion of the agency, an employee may be allowed to take annual leave or be granted leave without pay in order to attend classes.

### 19-716.03. REQUIRED COURSES

An agency may require an employee to take a specific course that will help improve the employee's performance in the present position or acquire skills necessary to perform additional job duties to meet agency needs. If required, the agency will then pay all costs of the course, including tuition, fees, books, and examinations. An agency shall not pay for courses required to attain nor to maintain a professional license unless related to the performance of the employee's job duties. Attendance at required courses may constitute work time.

### 19-716.04. TUITION ASSISTANCE

A. Agencies may provide tuition assistance to employees based on the guidelines recommended by DSHR and approved by the Department of Administration.

B. For exceptions to the Tuition Assistance Guidelines, the agency may submit a proposal to the Department of Administration for approval.

1. Each proposal shall include the following information:

- a. Program justification based on agency needs;
- b. Description of the courses;
- c. All classes and the number of positions in each class in the requested program;
- d. Fiscal year cost estimates for participation in the requested program; and
- e. A service commitment and payback agreement.

2. Except as provided above, any other forms of educational assistance for employees or non-employees may not be given by agencies unless authorized by statute or by the Department of Administration.

### 19-717. DISCIPLINARY ACTIONS

**SCOPE AND PURPOSE**

This Regulation governs the administration of progressive discipline for covered employees in FTE positions.

**19-717.01. STATEMENTS OF POLICY**

A. The Division of State Human Resources (DSHR) shall develop a progressive discipline model policy to assist an agency in its policy development. The Division of State Human Resources must review and approve each agency's progressive discipline policy.

B. Each agency shall develop a progressive discipline policy and establish procedures that will ensure timely and equitable treatment of employees' behavioral deficiencies and breaches of conduct.

C. Each agency's progressive discipline policy should provide for the following types of disciplinary actions:

1. Oral Reprimand or equivalent,
2. Written Reprimand or equivalent,
3. Suspension,
4. Termination,
5. Reassignment,
6. Downward Reclassification,
7. Downward Unclassified Title Change, and
8. Demotions.

D. All suspensions shall be without pay.

**19-718. STATE EMPLOYEE GRIEVANCES AND APPEALS****SCOPE AND PURPOSE**

This Regulation sets forth the procedures for grievances and appeals under the State Employee Grievance Procedure Act (the Act), codified at Section 8-17-310 through Section 8-17-370 of the South Carolina Code of Laws.

**19-718.01. STATEMENTS OF POLICY**

A. The Division of State Human Resources shall develop a grievance model policy to assist an agency in its policy development. The Division of State Human Resources must review and approve each agency's grievance policy.

B. Each agency shall develop a grievance policy and establish procedures that will ensure timely and equitable treatment for the review of employee grievances.

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C. All covered employees as defined in Section 8-17-320 (7) of the South Carolina Code of Laws are eligible to initiate a grievance or an appeal as specified in the Act. The State Employee Grievance Procedure Act does not apply to non-covered employees.

D. Teaching and research faculty, professional librarians, academic administrators, and all other persons holding faculty appointments at four-year post-secondary educational institutions, including any branch campuses, if any, as defined in Section 59-107-10, shall not be covered by these Regulations but shall be governed by Section 8-17-380 of the South Carolina Code of Laws.

E. No employee shall be disciplined or otherwise prejudiced in employment for exercising rights or testifying under the Act.

### **19-718.02. INTERNAL AGENCY GRIEVANCE PROCEDURES**

A. Each notice of an employment action by an agency that may constitute a grievance under the Act should be in writing. A voluntary acceptance of such an action on the part of a covered employee should also be in writing. The notice must advise the covered employee of the action taken and, except in cases where the action is voluntary as evidenced by an acknowledgment from the covered employee, should advise of the covered employee's right to initiate a grievance.

B. Each agency shall establish written internal agency grievance procedures. All provisions shall comply fully with the Act and, as provided for in the Act, be submitted to DSHR for approval.

C. Each agency shall ensure that each covered employee is afforded access to a copy of the agency's internal agency grievance procedures.

D. Each agency shall maintain documentation pertaining to grievances filed by employees. Such information must be made available upon request by DSHR.

E. Failure by the agency to issue a final decision within 45 calendar days is considered an adverse decision and allows the covered employee to proceed with an appeal to the State Human Resources Director after 45 calendar days, but no later than 55 calendar days from the initial date the grievance was filed within the agency.

### **19-718.03. COVERED EMPLOYEES AND THEIR REPRESENTATIVES**

A. "Covered employee" means a full-time or part-time employee occupying a part or all of an established full-time equivalent (FTE) position who has completed the probationary period and has a "meets" (or equivalent) or higher overall rating on the employee's performance evaluation and who has grievance rights. Instructional personnel are covered upon the completion of one academic year except for faculty at State technical colleges of not more than two full academic years' duration. If an employee does not receive an evaluation before the performance review date, the employee must be considered to have performed in a satisfactory manner and be a covered employee. This definition does not include employees in positions such as temporary, temporary grant, time-limited, or research grant employees who do not have grievance rights and employees exempt from the State Employee Grievance Procedure Act.

B. Throughout the grievance and appeal process, each covered employee may be represented and advised by counsel or other representative or be self-represented as provided by Section 8-17-330 of the South Carolina Code of Laws. If covered employees elect to exercise the right of counsel, it shall be at the employee's expense.

C. The Act exempts certain employees from its provisions as noted in Section 8-17-370 of the South Carolina Code of Laws.

### **19-718.04. GRIEVANCES**

A. Grievable adverse actions shall include:

1. Terminations;

2. Suspensions;

3. Involuntary reassignments in excess of thirty (30) miles from the prior work station; NOTE: The reassignment of an employee by an agency in excess of thirty (30) miles from the prior work station to the nearest facility with an available position having the same State salary range for which the employee is qualified is not considered an involuntary reassignment.

4. Demotions;

5. Punitive reclassifications where the agency, in the case of a grievance, or the State Resources Director, in the case of an appeal, determines that there is a material issue of fact that the action was solely done to penalize the covered employee. However, reclassifications, reassignments, and transfers within the same state salary range are not considered to be grievable or appealable;

6. Promotions, in instances where the agency, or in the case of appeals, the State Human Resources Director, determines that there is a material issue of fact as to whether or not an agency has considered a qualified covered employee for a position for which the employee formally applied or would have applied if the employee had known of the promotional opportunity. When an agency promotes an employee one organizational level above the promoted employee's former level, however, that action is not a grievance or appeal for any other covered employee. Failure to be selected for a promotion is not considered an adverse employment action which can be considered grievable or appealable;

7. Salary decreases based on performance as the result of an Employee Performance Management System (EPMS) evaluation; and

8. Reduction in Force but only if the agency, or as an appeal if the State Human Resources Director, determines that there is a material issue of fact that the agency inconsistently or improperly applied its reduction in force policy or plan.

B. A covered employee must initiate a grievance in writing internally with the agency within 14 calendar days of the effective date of the employment action or 14 calendar days from when the employee is notified of the action, whichever is later in accordance with the agency's grievance policy.

C. The following are some examples of employment actions that do not constitute a basis for a grievance or an appeal:

1. A covered employee who voluntarily resigns or voluntarily accepts a demotion, reclassification, transfer, reassignment, or salary decrease shall waive any and all rights to file a grievance or an appeal concerning such actions and the covered employee can rescind such voluntary actions only if the agency head or the agency head's designee agrees;

2. A covered employee whose position is reclassified to a class with a lower salary range shall not have the right to file a grievance or an appeal concerning the reclassification to the State Human Resources Director unless a determination is made that a material issue of fact exists concerning a punitive reclassification;

3. A covered employee who is promoted, reclassified to a higher salary range, or moved to an unclassified position with a higher rate of pay and subsequently demoted prior to completing the trial period in the class with the higher salary range or higher rate of pay shall not have the right to file a grievance or an appeal concerning the demotion, unless such demotion is to a class with a lower salary range or lower rate of pay than the position

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in which the employee was serving prior to promotion, reclassification, or movement to an unclassified position with a higher rate of pay. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period. (Refer to Definitions – Trial Period.)

4. A covered employee who is promoted or moved to an unclassified position with a higher rate of pay and subsequently receives a reduction in pay prior to completing the trial period in the position with the higher salary range or higher rate of pay shall not have the right to file a grievance or an appeal concerning the reduction in pay, unless the action results in a lower rate of pay than that which the employee was receiving prior to the promotion or movement to an unclassified position with a higher rate of pay. Exception: If the employee is not serving a trial period at the time this version of the Regulations becomes effective, the covered employee will not serve a trial period. (Refer to Definitions – Trial Period.)

### 19-718.05. APPEALS TO THE STATE HUMAN RESOURCES DIRECTOR

A. If a covered employee is not satisfied with the agency's final decision concerning his grievance, he may appeal, after all administrative remedies to secure relief within the agency have been exhausted, to the State Human Resources Director who will determine whether to dismiss the appeal or remand or forward the appeal for further action.

B. A covered employee who wishes to appeal the final decision of the agency to the State Human Resources Director shall file an appeal within ten calendar days of receipt of the decision from the agency head or his designee or within 55 calendar days after the employee filed the grievance with the agency, whichever occurs later. The covered employee or the employee's representative shall file the request in writing with the State Human Resources Director. Failure to file an appeal with the State Human Resources Director within ten calendar days of receipt of the agency's final decision or 55 calendar days from the initial grievance, whichever occurs later, constitutes a waiver of the right to appeal. The time periods for an appeal to the State Human Resources Director may not be waived.

C. The Division of State Human Resources shall develop standard forms to be used in all appeal procedures.

D. Upon receipt of an appeal from a covered employee, the State Human Resources Director shall:

1. Acknowledge receipt of the appeal and require that the covered employee submit a standard appeal application form;

2. Upon receipt of the standard appeal application form, notify and request that the agency furnish the State Human Resources Director a copy of all records, reports, and documentation of the earlier proceedings on the grievance within 15 calendar days following the request. Extensions may be granted in extenuating circumstances; and

3. Determine whether the appeal is timely and complies with the jurisdictional requirements of the Act.

E. If the State Human Resources Director determines that the appeal is untimely or fails to comply with the requirements of the Act, he will notify the covered employee or his representative that the appeal is denied, and no further action will be taken concerning the appeal. As a result of the State Human Resources Director's decision, the covered employee may request reconsideration within 30 calendar days from notification of the decision. A notice of appeal seeking appellate review of the decision may be made by the covered employee to the Administrative Law Court as provided in Sections 1-23-380 and 1-23-600 (D) of the South Carolina Code of Laws.

F. If the State Human Resources Director determines that additional action by the agency is necessary and appropriate, he may remand the appeal to the agency.

G. If the State Human Resources Director determines that the covered employee has pending related criminal charges against him, the appeal process may be held in abeyance pending the outcome of those charges at the request of the covered employee or the agency. If the appeal is held in abeyance, the covered employee or his representative must notify DSHR within 30 calendar days after the disposition of the charges has been determined in order to preserve the covered employee's right to further pursue his appeal. Failure to contact DSHR within those 30 calendar days will be deemed a waiver and abandonment of the appeal. Evidence of the dismissal, acquittal, or non-prosecution of the related criminal charges shall be inadmissible in the employee's appeal pursuant to applicable law.

H. At the request of the covered employee or the agency, the State Human Resources Director may place an appeal in abeyance in extenuating circumstances.

I. If the State Human Resources Director determines that the appeal is timely and complies with the requirements of the Act, he will forward the appeal either (1) to the mediator-arbitrator for mediation-arbitration or (2) after the mediation process has been completed, to the designated panel of the State Employee Grievance Committee [Committee] and Committee Attorney for a hearing, whichever is appropriate based on the type of adverse employment action.

J. When an appeal is forwarded to a designated Committee panel, the State Human Resources Director will notify the covered employee or their representative and the agency with a statement as to the issues which have been presented by the parties for presentation before the Committee for decision.

K. The official record on each appeal and all related correspondence and documents shall be maintained in a confidential file by DSHR.

L. The State Human Resources Director will send the notices and correspondence pertaining to an appeal directly to the parties or their representatives.

#### **19-718.06. MEDIATION PRIOR TO STATE EMPLOYEE GRIEVANCE COMMITTEE HEARINGS**

A. "Mediation" means an alternative dispute resolution process whereby a mediator who is an impartial third-party acts to encourage and facilitate the resolution of a dispute without prescribing what it should be. The process is informal and nonadversarial with the objective of helping the disputing parties reach a mutually acceptable agreement.

B. Once an appeal has been made to the State Human Resources Director and has been determined to meet the jurisdictional requirements for an appeal to be forwarded to the Committee, the State Human Resources Director shall appoint a mediator to the appeal. The following adverse employment actions will be forwarded to the mediator: terminations, salary decreases based on performance, demotions, suspensions for more than ten days, and reductions in force when the State Human Resources Director determines there is a material issue of fact regarding inconsistent or improper application of the agency's reduction in force plan or policy.

C. The mediator:

1. Shall review the documents which have been submitted by each party to the State Human Resources Director and schedule time(s) and location(s) to meet with both parties, jointly or independently, to attempt to resolve the matter;

2. Has sole authority to determine whether the meeting includes the parties with their representatives, jointly or independently;

3. Should determine when the mediation is not viable, that an impasse exists, or that the mediation should end. The mediation cannot be unilaterally ended without the permission of the mediator; and

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4. Should notify each party in writing, as to the status of the mediation process no later than ten calendar days prior to the scheduled Committee hearing, when the parties have not resolved the matter and a written agreement has not been signed.

### D. Mediation Conferences

1. Mediation conferences are confidential and limited to no more than three representatives, including legal counsel and the covered employee, for each party. An observer who has been assigned to conduct mediations for DSHR may attend for training purposes if both parties to the mediation concur.

2. The parties or their representatives attending a mediation conference must have full authority to negotiate and recommend settlement.

3. Each covered employee may have representation at the mediation conference and either the covered employee or his representative must attend. If neither the covered employee nor his representative attends a conference, the covered employee is deemed to have waived his rights to pursue the appeal further unless there is reasonable justification for the failure to attend the conference. The State Human Resources Director shall determine whether or not reasonable justification exists based on documents submitted by the parties on this issue and based on other information available relating to the conference. Documents submitted by the parties on the issue of reasonable justification must be received by DSHR no later than 14 calendar days from the date of the scheduled conference. Denial of reasonable justification by the State Human Resources Director concludes the processing of the covered employee's appeal.

4. If the appeal is resolved, the mediator will assist the parties in preparing a written agreement to reflect the terms of the resolution and may consult with the attorney for DSHR or other DSHR personnel to assist in drafting the agreement.

### E. Confidentiality

1. Any discussions by any of the parties concerned during the mediation process shall be kept confidential and shall not be used or referred to during subsequent proceedings.

2. The mediator may not be compelled by subpoena or otherwise to divulge records or discussions or to testify in regard to the mediation in any adversary proceeding or judicial forum.

3. All records, reports, documents, discussions, and other information received by the mediator while serving in that capacity are confidential.

4. No pictures, videos, or voice recordings shall be taken during the mediation conference except by mutual agreement by both parties and at the discretion of the mediator.

## **19-718.07. APPEALS FORWARDED TO THE STATE EMPLOYEE GRIEVANCE COMMITTEE**

A. If a resolution through mediation as required by Section 19-718.06 of the State Human Resources Regulations cannot be accomplished, the State Human Resources Director shall forward the appeal to the designated panel of the Committee.

B. No more than three representatives, including legal counsel and the covered employee, may be designated by either party to be present during Committee hearings.

### C. Witnesses

1. Notice - After an appeal has been determined to be appealable to the Committee and has been placed on the Committee's docket, the covered employee and the agency, or their designated representatives, shall exchange witness lists which must be received by the other party no later than five calendar days prior to the hearing. The postponement of a hearing does not reinstate any time frame that has already elapsed at the time of the request to reschedule. Witness lists which have not been exchanged as required by this provision and witnesses not included on a properly exchanged list will be excluded at the hearing unless the Committee finds that there has been excusable neglect or that the witness(es) should be admitted in the furtherance of justice.

2. Character Witnesses - No more than three character witnesses for each side will be permitted to testify before the Committee when evidence of character is relevant to the issues. A character witness is defined as a witness offered solely for the purpose of presenting testimony which bears on the positive or negative general character of the covered employee, i.e., the covered employee's reputation for truthfulness, peaceful or violent manner, or other considerations of character which have a bearing on the matter before the Committee.

3. Subpoenas - Only the Committee Chairman or his designee is authorized to issue subpoenas for witnesses at the request of either party. Either party may request in writing the issuance of a subpoena. The request must be received by DSHR no later than ten calendar days before the date of the hearing. The postponement of a hearing does not reinstate any time frame that has already elapsed at the time of the request to reschedule. The request for a subpoena must include the name of the witness. The service of the subpoena is the responsibility of the requesting party. When any person fails to comply with a subpoena, the requesting party is responsible for the pursuance and cost of any judicial enforcement of that subpoena. Any reasonable expenses incurred by a subpoenaed witness shall be paid by the requesting party.

4. Sequestration of Witnesses - Witnesses other than representatives shall be sequestered and are prohibited from being in the hearing room whether the appeal is heard in a public hearing or heard in executive session. Exceptions to this prohibition include during preliminary comments, the Committee's opening statement, and that witness's testimony.

5. Depositions de bene esse - The testimony of a witness may be submitted into evidence in the form of a deposition de bene esse when the attendance of the witness whose testimony is required cannot be had (a) by reason of (i) extreme age, (ii) sickness or infirmity, or (iii) indispensable absence on public official duty, (b) as a result of verification of his intended absence from the State before the appeal can be heard by the designated Committee panel, or (c) when such witness may be without the limits of the State. If the parties cannot agree to the use of a deposition de bene esse, the party desiring to submit the deposition de bene esse may request permission from the Committee Chairman or his designee and the Committee Attorney to submit the deposition de bene esse. The party opposing the submission will be permitted an opportunity to respond to the request. The request and the response may be made either in writing before or verbally at the hearing. When the parties agree upon, or a party's request is granted for the use of, a deposition de bene esse, notice must be exchanged as to the time of the deposition de bene esse to allow all interested parties to attend and participate. A copy of this notice should be sent to DSHR. No other types of depositions, including discovery depositions, are permitted.

#### D. Documents

1. Submission to DSHR and Exchange by the Parties - Any records, reports, and documentation submitted by either party to be forwarded to the Committee prior to the hearing must be received by DSHR no later than 15 calendar days prior to the hearing. The postponement of a hearing does not reinstate any time frame that has already elapsed at the time of the request to reschedule. Those documents submitted by both parties will be provided by DSHR to committee members prior to the hearings and considered to be the record during the hearing and marked into evidence as Committee Exhibit I. Each covered employee granted a hearing before the Committee will receive a copy of the records, reports, and documentation submitted by the agency. In like manner, a copy of any records, reports, and documentation filed by a covered employee will be sent to the agency.



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2. Subpoenas - Only the Committee Chairman or his designee is authorized to issue subpoenas for files, records, and documentation on the grievance at the request of either party. Either party may request in writing the issuance of a subpoena. This request must be received by DSHR no later than ten calendar days before the date of the hearing. The postponement of a hearing does not reinstate any time frame that has already elapsed at the time of the request to reschedule. The request for a subpoena must include a description sufficiently specific to identify the documents in question and the name of the custodian of the documents in question. The service of the subpoena is the responsibility of the requesting party. When any person fails to comply with a subpoena, the requesting party is responsible for the pursuance and cost of any judicial enforcement of that subpoena. Any reasonable expenses incurred in the production of the documents shall be paid by the requesting party. Subpoenaed documents shall be received by the requesting party no later than five calendar days prior to the hearing or by the date indicated by the requesting party. Motions, by either party, to quash a subpoena must be made to the Administrative Law Court.

### 3. Committee Exhibit I

a. The State Human Resources Director shall arrange for the reproduction of records, reports, and documentation timely submitted by both parties and make this information available, prior to the date of the hearing, to the designated Committee panel and Committee Attorney for that hearing.

b. The documents transmitted by the State Human Resources Director to the designated Committee panel and Committee Attorney must be marked into evidence as "Committee Exhibit I" during the Committee Chairman's opening statement at the beginning of the hearing unless excluded by the Committee Attorney based on a prior objection raised by either party.

### E. Panel Hearings

1. Scheduling and Notice - The State Human Resources Director shall establish a date, time, and place for the hearing of each appeal and provide reasonable notice to the covered employee, agency, designated Committee panel, and Committee Attorney.

2. Continuances and Postponements - Prior to the commencement of the hearing, the State Human Resources Director has the authority to grant a postponement based upon extenuating circumstances.

3. Executive Session Hearings - All hearings before the State Employee Grievance Committee shall be in executive session unless the employee requests a public hearing in accordance with the Freedom of Information Act prior to the designated Committee panel voting to go into executive session. If the hearing is held in executive session, only the designated Committee panel, the parties involved in a hearing, the Committee Attorney, and persons approved by the designated Committee Chairman may attend.

### 4. Committee Members

a. The Committee shall consist of at least 18 and not more than 24 members who must be appointed by the Director of the Department of Administration in accordance with the Act.

b. The State Human Resources Director may divide the Committee into panels of five members to sit at hearings and designate a member to serve as the presiding officer and a member to serve as secretary at all panel hearings.

c. A chairman shall be elected from the membership of the Committee each year after approval of membership of new members by the Director of the Department of Administration. A meeting for election of a chairman shall be held as soon as practicable after appointments are made.

d. A quorum of a panel shall consist of at least three Committee members. No hearings may be conducted without a quorum.

e. Whenever an appeal before the Committee is initiated by or involves an employee of an agency of which a Committee member also is an employee or involves another impermissible conflict of interest, the Committee member is disqualified from participating in the hearing.

#### 5. Committee Attorney

a. The Department of Administration is authorized to request assignment by the Attorney General of one or more of his staff attorneys admitted to practice law in South Carolina to serve in the capacity of Committee Attorney. If the Attorney General is not able to provide sufficient legal staff for this purpose due to an impermissible conflict of interest, the Department of Administration, with the approval of the Attorney General, is authorized to secure other qualified attorneys to serve as Committee Attorney.

b. The Committee Attorney shall determine the order and relevance of the testimony and the appearance of witnesses, and shall rule on all motions and all legal issues.

#### 6. Attendance by the Parties

a. Panel hearings will be conducted on the date and at the time scheduled unless the Committee, acting collectively or through its designated Committee Chairman, upon commencement of a hearing, grants a postponement based upon extenuating circumstances.

b. Each covered employee may have representation at the panel hearing and either the covered employee or his representative must attend. If neither the covered employee nor his representative attends the panel hearing, the covered employee is deemed to have waived his rights to pursue the appeal further unless there is reasonable justification for the failure to attend the panel hearing. The State Human Resources Director shall determine whether or not reasonable justification exists based on documents submitted by the party on this issue and based on other information available relating to the panel hearing. Documents submitted by the party on the issue of reasonable justification must be received by DSHR no later than 14 calendar days from the date of the scheduled panel hearing. Denial of reasonable justification by the State Human Resources Director concludes the processing of the covered employee's appeal.

c. If the agency fails to appear at the panel hearing without reasonable justification, the designated Committee panel will base its decision on a review of Committee Exhibit I and a presentation of the case by the covered employee.

#### 7. Administrative Assistance and Recordings of Hearings

a. The State Human Resources Director shall provide to the Committee from the resources of DSHR such administrative and clerical services as may be required.

b. All proceedings before the Committee shall be recorded by DSHR. The recording shall be preserved by DSHR.

8. Submission of Witness and Representative Lists to Committee - At the beginning of the hearing, each party shall provide to the secretary of the designated Committee panel a list of representatives and witnesses. Representatives who will testify must be listed as both a representative and a witness. Witness lists which have not been exchanged as required by Section 19-718.07 C. 1. of the State Human Resources Regulations and witnesses not included on a properly exchanged list will be excluded at the hearing unless the Committee finds that there has been excusable neglect or that the witness(es) should be admitted in the furtherance of justice.

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9. Conduct of Hearings - The presiding Committee Chairman shall conduct the grievance hearing in an equitable, orderly, and expeditious fashion. The Committee will give effect to rules of privilege recognized by law. The parties shall be bound by the decisions of the presiding officer or Committee Attorney insofar as such hearings are concerned.

### 10. Opening Statements and Order of Presentation of the Case

a. The designated Committee Chairman shall open the hearing by explaining the procedures to be followed in the hearing.

b. Each party shall be given an opportunity to make an opening statement.

c. The covered employee shall present his case first, followed by the agency.

### 11. Direct and Cross Examinations

a. The testimony of witnesses shall be under oath or affirmation.

b. Each party shall have the right to examine and cross-examine witnesses, as appropriate.

c. The designated Committee Chairman, the Committee Attorney, or any member of the designated Committee panel may direct questions to any party or witness at any time during the proceedings.

d. Each party may object to testimony, questions, or documents.

12. Evidentiary Matters - Evidentiary matters as governed by the South Carolina Administrative Procedures Act will apply in hearings before the Committee.

13. Interpretations from DSHR - The designated Committee Chairman of a designated Committee panel may request information or assistance in interpretations of rules and Regulations from the State Human Resources Director.

### 14. Closing Statement

a. Before closing the hearing, the designated Committee Chairman shall allow the parties to make a closing statement.

b. The covered employee will have the option of closing first or last.

## F. Committee Deliberations and Written Committee Decisions

1. The designated Committee panel shall retire into executive session, without the parties present, to receive legal advice from the Committee Attorney and consider the evidence. The Committee Attorney may be present during the Committee's deliberations on its decision only upon the request of the designated Committee Chairman. No vote by the designated Committee panel may be taken in executive session except to come out of executive session.

2. Each member of the designated Committee panel shall vote on the merits of the appeal and the vote will be recorded.

3. Decisions of the Committee shall be determined by a simple majority of those members who heard the appeal.

4. Within 20 calendar days of the conclusion of the hearing, the designated Committee panel shall make its final written decision.

5. The final decision of the Committee as it relates to an appeal shall include the (1) findings of fact, (2) statements of policy and conclusions of law, and (3) the Committee's decision.

6. As governed by the provisions of the Act, the Committee may sustain, reject, or modify a grievance hearing decision of an agency.

7. Any member agreeing with the majority decision but differing with the rationale may prepare a concurring decision. Any member voting in the minority may prepare a dissenting opinion.

8. The Committee Attorney or the attorney for DSHR or both may assist the Committee in the preparation of its findings of fact, statements of policy, and conclusions of law.

9. The decision of the Committee shall be transmitted to the State Human Resources Director for notification to the covered employee and the agency or their representatives.

10. As a result of this final written decision, either the covered employee or the agency may request reconsideration within 30 calendar days from receipt of the decision.

11. The designated Committee panel shall request assistance from the Committee Attorney or the attorney for DSHR or both in the preparation of a written response to a request for reconsideration.

12. If no request for reconsideration is made or when a response is made to a request for reconsideration, the Committee decision is final in terms of administrative review.

#### **19-718.08. APPEALS FORWARDED TO A MEDIATOR-ARBITRATOR**

A. "Mediation-arbitration" means an alternative dispute resolution process that provides for the submission of an appeal to the mediator-arbitrator, an impartial third party who conducts conferences to attempt to resolve the grievance by mediation and render a decision that is final and binding on the parties if the appeal is not mediated.

B. The State Human Resources Director shall forward to a mediator-arbitrator all appeals which meet jurisdictional requirements and relate to the appeal of the following adverse employment actions: lack of promotional consideration and punitive reclassifications when the State Human Resources Director determines there is a material issue of fact regarding these issues, suspensions for ten days or fewer, and involuntary reassignments. In these cases, the arbitration decision is final in terms of administrative review. The provisions of the S.C. Administrative Procedures Act do not apply in the mediation-arbitration proceedings.

#### **C. Selection and Assignment of the Mediator-Arbitrator**

1. The mediator-arbitrator must be assigned by the State Human Resources Director and shall serve as an impartial third party to hold conferences to encourage and facilitate the resolution of the appeal and, if the appeal is not resolved, issue a decision which determines whether the covered employee substantiated that the agency's decision was not reasonable.

2. The State Human Resources Director shall maintain a pool of qualified mediator-arbitrators trained by DSHR in alternative dispute resolution, grievance, and related human resources issues.

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3. The State Human Resources Director shall have the discretion to assign either two mediator-arbitrators, one to serve as mediator during the mediation phase and one to serve as arbitrator during the arbitration phase, or one mediator-arbitrator to serve as both mediator and arbitrator.

### D. Mediation-Arbitration Conferences

1. The mediator-arbitrator shall review the documents which have been submitted by each party to the State Human Resources Director and shall schedule time(s) and location(s) to meet with both parties, jointly or independently.

2. No more than three representatives, including legal counsel and the covered employee, may be designated by either party to be present during mediation-arbitration conferences. An observer who has been assigned to conduct mediation-arbitrations for DSHR may attend for training purposes if both parties to the mediation-arbitration conference concur.

3. Each covered employee is entitled to representation at the conference and either the covered employee or his representative must attend. If neither the covered employee nor his representative attend a conference, the covered employee is deemed to have waived his rights to pursue the appeal further unless there is reasonable justification for the failure to attend the conference. The State Human Resources Director shall determine whether or not reasonable justification exists based on documents submitted by the parties on this issue and based on other information available relating to the conference. Documents submitted by the parties on the issue of reasonable justification must be received by DSHR no later than 14 calendar days from the date of the scheduled conference. Denial of reasonable justification by the State Human Resources Director concludes the processing of the covered employee's appeal.

4. If the agency fails to appear at a conference without reasonable justification, the mediator-arbitrator will base an arbitration decision on a review of the documents which have been submitted by each party to the State Human Resources Director and a presentation of the case by the covered employee.

5. The parties or their representatives attending a conference must have full authority to negotiate and recommend settlement.

### E. Mediation Phase

1. The mediator-arbitrator has sole authority to determine whether conferences during the mediation phase include the parties with their representatives, jointly or independently.

2. Initially, the mediator-arbitrator will attempt to assist the parties as a mediator in reaching a voluntary mutual resolution of the appeal.

3. The mediation phase cannot be unilaterally ended nor the arbitration phase begun without the permission of the mediator-arbitrator.

4. If the dispute is resolved, the mediator-arbitrator will assist the parties in preparing a written agreement to reflect the terms of the resolution and may consult with the attorney for DSHR or other DSHR personnel to assist in drafting the agreement.

### F. Arbitration Phase

1. If the mediator-arbitrator determines that the parties are unable to reach a resolution of the appeal by mediation during, but no later than, the 20 calendar days immediately following the initial conference with either or both parties, then the mediator-arbitrator shall notify the parties that the arbitration phase will proceed, as appropriate.

## 2. Procedures for Arbitration Phase

a. During the arbitration phase, the parties will be allowed to submit to the mediator-arbitrator a concise written summary of the relevant issues involved in the appeal, statements, and other additional documents or information. The parties must have provided the other party and the mediator-arbitrator with the written summary of relevant issues, any statements from individuals who have knowledge about the issues on appeal, and other related documents or information concerning the appeal prior to the arbitration conference. The time for the exchange by the parties and submission to the mediator-arbitrator of the written summary of relevant issues, statements, and other related documents or information will be determined by the mediator-arbitrator.

b. During the arbitration phase, the mediator-arbitrator will allow each party a maximum of two hours to present his appeal, with the covered employee presenting his case first. Either the party or one of his representatives shall be designated as the spokesperson during the conference. No testimony will be allowed and others in attendance will not be allowed to speak or ask questions during the presentation of information. The parties may use the designated time to present any oral arguments concerning the issues on appeal. The covered employee may reserve a portion of the two hours to reply to the agency's contentions. This reply is limited only to information presented orally by the agency and shall not exceed one-half of the total time for the presentation of information. In extenuating circumstances, the mediator-arbitrator may increase or decrease the time each party has to present his appeal at the conference during the arbitration phase.

c. The other party and his representatives may be present when a party presents his appeal during the arbitration phase.

d. Conformity to legal rules of evidence shall not be necessary during the arbitration phase.

e. At any time before the mediator-arbitrator makes a final arbitration decision, the mediation phase may be reopened at his initiative, or at his discretion upon request of a party.

f. The mediator-arbitrator shall transmit to both parties a final written decision based on all documents properly submitted by both parties and the oral arguments presented during the arbitration phase within 45 calendar days after the mediator-arbitrator initially meets with either or both parties. This 45-day period may be extended by the State Human Resources Director under extenuating circumstances. When the expiration of this 45-day period occurs during the seven day waiting period required under the Older Workers Benefit Protection Act before a written agreement becomes effective, the State Human Resources Director will extend the 45-day period one day for each day remaining in the seven day waiting period.

g. As a result of this final written decision, either the covered employee or the agency may request reconsideration by the mediator-arbitrator within 30 calendar days from receipt of the decision.

h. The mediator-arbitrator may request assistance from the attorney for DSHR or DSHR staff in the preparation of his final written decision and his written response to a request for reconsideration.

### G. Confidentiality

1. The conferences with the parties are confidential and limited to the parties and their representatives, but other persons may attend with the permission of the parties and the mediator-arbitrator.

2. The mediator-arbitrator may not be compelled by subpoena or otherwise to divulge any records or discussions or to testify in regard to the mediation-arbitration in any adversary proceeding or judicial forum.

3. All records, reports, documents, discussions, and other information received by the mediator-arbitrator while serving in that capacity are confidential, except the documents which have been submitted by each party shall be the record during appellate review to the Administrative Law Court.

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4. No pictures, videos, or voice recordings, shall be taken during the mediation or arbitration conference except by mutual agreement by both parties and at the discretion of the mediator or the arbitrator.

### 19-718.09. APPELLATE REVIEW OF ANY FINAL DECISION

Either party may seek appellate review to the Administrative Law Court from a final decision by the State Human Resources Director denying an appeal or by the State Employee Grievance Committee or mediator-arbitrator.

A. A notice of appeal seeking appellate review to the Administrative Law Court must be initiated within 30 calendar days from receipt of the decision.

B. A notice of appeal seeking appellate review of the final decision may be made by the covered employee to the Administrative Law Court as provided in Sections 1-23-380 and 1-23-600 (D) of the South Carolina Code of Laws.

C. Only after an agency submits a written request to DSHR seeking approval of the Department of Administration may the agency file a notice of appeal seeking appellate review to the Administrative Law Court. However, the agency may perfect the appeal only upon approval of the Director of the Department of Administration.

D. The covered employee or the agency who first files the notice of appeal seeking appellate review of a State Employee Grievance Committee decision is responsible for preparation of a transcript and paying the costs of preparation of a transcript of the hearing required for certification of the record to the Administrative Law Court.

E. The record for appellate review of a decision made by a mediator-arbitrator shall be limited to the documents and information which have been submitted by each party and the final written decision of the mediator-arbitrator.

F. The record for appellate review of a decision made by the State Human Resources Director shall be limited to the documents and information which have been submitted by each party and the final written decision of the State Human Resources Director.

G. The covered employee or the agency who first files the notice of appeal seeking appellate review of a final decision by (1) the State Human Resources Director denying an appeal; (2) the State Employee Grievance Committee; or (3) a mediator-arbitrator, is responsible for preparation of a transcript and paying the costs of preparation of a transcript of the hearing required for certification of the record to the Administrative Law Court. In addition, the appealing party is responsible for all costs associated with providing the record on appeal to the Administrative Law Court.

H. Neither the Department of Administration nor DSHR nor the State Human Resources Director nor the Committee nor the mediator-arbitrator may be named in the notice of appeal to the Administrative Law Court. However, any of these entities are entitled to make a motion in the Administrative Law Court to be allowed to intervene to participate in the appeal for appropriate reasons including their interest in defending their policies.

### 19-718.10. REINSTATEMENT OF LEAVE

An employee who involuntarily separates from State service and whose employment is reinstated through the agency's internal grievance procedure, mediation agreement or by the State Employee Grievance Committee shall have his sick leave restored and shall be given the option of buying back all, some or none of his annual leave at the rate at which it was paid out.

**19-719. COMPUTATION OF BACK PAY AND APPROVAL OF PERSONNEL SETTLEMENTS****SCOPE AND PURPOSE**

This Regulation sets forth the procedures for computing back pay and approval of personnel settlements.

**19-719.01. COMPUTATION OF BACK PAY**

A. Reinstatement of pay resulting from a reversed disciplinary action or suspension pending investigation of an employee shall be less any other related income received, such as unemployment compensation, workers' compensation, State retirement benefits (only when the employee retires after the disciplinary action occurs and when the income is the result of a termination), and wages earned, for the period of time in which the pay was deducted. Employee retirement contributions and related interest withdrawn by the employee are not considered other related income. Reinstatement of pay shall be accomplished in the following manner:

1. The employee shall submit to the agency a Statement of Earnings and Unemployment Compensation form indicating any wages including unemployment compensation, earned during the interim period of disciplinary action;

2. The agency shall submit a written request for the employee's reinstatement of pay and a statement of back pay due, less any other related income, such as unemployment compensation, workers' compensation, State retirement benefits, and wages, to the State Human Resources Director;

3. Any unemployment compensation earned by the employee will be verified by DSHR through the Department of Employment and Workforce. The amount of unemployment compensation provided by the Department of Employment and Workforce will be used in determining the final back pay amount;

4. The computation of back pay must be in accordance with guidelines provided by the Office of the Comptroller General for agencies whose payroll is issued by the Comptroller General. For all other agencies, computation of back pay must be in accordance with applicable agency policies and procedures; and

5. The State Human Resources Director must approve the amount of reinstatement pay due the employee. That approval is not subject to administrative appeal and will constitute the final administrative decision.

B. The above procedure shall be followed in all reversed disciplinary actions and back pay associated with a suspension pending investigation.

C. The intent of this Regulation is only to make the employee whole as if the disciplinary action had not occurred.

**19-719.02. APPROVAL OF PERSONNEL SETTLEMENT**

A. It is the policy of the State Fiscal Accountability Authority that personnel settlement proposals which include monetary statements for both covered and non-covered employees be presented to the State Fiscal Accountability Authority for approval as outlined in the following:

1. In all situations where a personnel settlement has not been negotiated or approved by the Office of the Attorney General under a plan approved by the Office of the Attorney General;

2. In all human resource-related matters, after review and recommendation by the State Human Resources Director, excluding settlements which have been negotiated and approved by the Workers' Compensation Commission, Department of Employment and Workforce, Equal Employment Opportunity Commission, or South Carolina Human Affairs Commission; and



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3. In all other situations where specific approval of the State Fiscal Accountability Authority would be necessary to disburse agency funds mentioned under the settlement proposal. Exception: Personnel Settlements containing lump sum amounts where payment would be supplied by the Insurance Reserve Fund or an agency's Foundation Fund.

a. All personnel settlement proposals shall contain such information as the State Fiscal Accountability Authority or its designee specifies.

b. The State Human Resources Director may review and approve any personnel settlement of \$10,000 or less.

B. Personnel settlements which do not contain a monetary payment, or when the monetary payment is made from a source other than agency funds, require approval from the State Human Resources Director.

### 19-720. SEPARATION FROM STATE SERVICE

#### SCOPE AND PURPOSE

This Regulation governs how the State government employment relationship may end.

#### 19-720.01. CONTINUOUS STATE SERVICE AND BREAK IN SERVICE

##### A. Continuous State Service

Continuous State service is service with one or more agencies without a break in service.

##### B. Break in Service

An employee experiences a break in service when the employee:

1. Separates from State employment.

Exception - When an employee moves from a position in which the employee earns both annual and sick leave to a position in which the employee only earns sick leave. All earned sick leave shall be transferred in accordance with Section 19-710.05 A.

2. Moves from one State agency to another and is not employed with the receiving agency within 15 calendar days following the last day worked (or approved day of leave) at the transferring agency.

Exception - Under extenuating circumstances an agency head may approve an extension from 15 calendar days up to but not in excess of six months for an employee in a full-time equivalent (FTE) position to be employed in another FTE position within State government without having a break in service. The approval must be made prior to the employee receiving a lump sum payment for unused annual leave and within 15 days of the last day the employee is in pay status.

3. Remains on leave for a period of more than 12 months.

#### Exceptions

- a. The employee is on a military tour of duty with reemployment rights protected under federal or State law.

b. The employee is participating in the Government Employees Interchange Program as provided in Section 19-714.

c. The employee is an academic personnel at an institution of higher learning on sabbatical leave.

4. Separates from State service as a result of a reduction in force and is not recalled to the original position or reinstated with State government within 12 months of the effective date of the separation.

5. Moves from an FTE position to a temporary, temporary grant, or time-limited position.

#### **19-720.02. RESIGNATION**

A. An employee may resign orally or in writing. Such notification of resignation should be accepted by the agency in the same manner as provided, whether written or oral, and an oral acceptance of a resignation should be generally confirmed in writing. Once an employee's resignation is accepted, it may not be withdrawn, cancelled, or amended without consent of the agency head or his designee.

B. Resignations should be given to provide a minimum of two weeks notice.

#### **19-720.03. TERMINATION**

For purposes of the State Employee Grievance Procedure Act, termination is the action taken by an agency against an employee to separate the employee involuntarily from employment.

#### **19-720.04. REDUCTION IN FORCE**

A. Statements of Policy

1. The Division of State Human Resources shall develop a reduction in force model policy to assist an agency in its policy development. The Division of State Human Resources must review and approve each agency's reduction in force policy.

2. Each agency shall develop a reduction in force policy.

Exception:

This requirement shall not apply to academic personnel at a four-year post-secondary educational institutions as defined in Section 59-107-10 of the South Carolina Code of Laws. However, each institution shall develop a policy outlining the criteria for a reduction in force for these employees.

3. Technical colleges are required to have a reduction in force policy.

4. Employees on authorized leave are eligible to compete in a reduction in force as if they are not on leave.

5. When a covered employee is assigned lower level responsibilities or demoted as a result of a reduction in force implemented due to loss of funding, the employee's salary may be reduced on the effective date of the reduction in force. The agency head or his designee, at his discretion, may reduce the employee's salary to a salary either between 0%-15% below the employee's current salary or between the employee's current salary and the midpoint of the lower pay band. In exercising this discretion, the agency head or his designee may use the option which results in the greatest cost savings.

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(Note: Regulation 19-720.04 A. 5. only applies to decreases in salary as a result of a reduction in force implemented due to loss of funding and is an exception to salary decreases when a covered employee is assigned lower-level responsibilities or demoted as listed in Sections 19-705 and 19-706.)

### B. Reduction in Force Plan

1. Each agency shall submit a reduction in force plan to DSHR for review and approval for procedural correctness prior to its implementation.

2. A reduction in force plan must include:

a. A reason for the reduction in force as defined by the agency. These circumstances shall be either agency reorganization, work shortage, loss of funding, or outsourcing/privatization. If the reason for the reduction in force is due to a loss of funding, DSHR will forward a copy of the plan to the Executive Budget Office for concurrence on the budgetary issue prior to final approval.

b. The competitive area(s) in which the reduction in force will apply. Competitive area(s) shall be determined by the agency according to critical needs. Any covered employee affected by a reduction in force shall have bumping rights within a competitive area(s).

c. The competitive group(s) within the competitive area(s) as defined by the agency including any employees in specified competitive area(s).

d. The proposed list of employees to be affected by the reduction in force which includes:

(1) The age, race, and sex of all employees in the competitive group(s); and

(2) A preliminary list of employees in each group in retention point order.

e. The efforts that will be made to assist employees affected by a reduction in force to find other employment, including notice to DSHR.

f. A current organizational chart showing the competitive area(s) and competitive group(s).

g. Justification of the use of any retention of necessary qualifications as provided in the agency's reduction in force policy.

### 3. Implementation

After a reduction in force plan is reviewed and approved by DSHR for procedural correctness and before it becomes effective, an agency representative shall inform affected employees of the following:

a. The reason for the reduction in force;

b. The competitive area(s) and competitive group(s);

c. The effects of the reduction in force upon State benefits;

d. The assistance offered by DSHR;

e. The employee's recall rights; and

f. The method of notification should a job become available.

#### 4. Reduction in Force Rights

a. Any covered employee affected by a reduction in force shall retain covered status and recall rights for a period of one year from the date of separation.

b. Employees who are affected by the reduction in force shall be recalled in inverse order based on retention points should a position become available within the competitive area.

c. A covered employee who is separated due to a reduction in force shall retain continuous service if the employee is reinstated within one year from the date of separation.

d. An employee who is separated by an agency by a reduction in force and is subsequently reinstated within one year shall have his sick leave restored and shall be given the option of buying back all, some, or none of his annual leave at the rate at which it was paid out.

#### 5. Grievance Rights

A covered employee who is affected by a reduction in force may grieve or appeal the reduction in force under the State Employee Grievance Procedure Act if the appeal is based on inconsistent or improper application of a reduction in force policy or plan.

#### **19-720.05. EXIT INTERVIEWS**

A. Each agency should establish a procedure for obtaining separation information from each employee who voluntarily separates from State service. This procedure should include an exit interview to reflect the specific reasons for the employee's separation. A reasonable effort should be made to interview the employee to obtain the information.

B. Each agency should maintain and summarize a general file on all exit interviews for review by management.

#### **19-720.06. ANNUAL AND SICK LEAVE UPON SEPARATION**

A. Section 19-709.05 explains the applicable annual leave provisions when an employee separates from State service.

B. Section 19-710.06 explains the applicable sick leave provisions when an employee separates from State service.

#### **19-721. RECORDKEEPING**

##### **SCOPE AND PURPOSE**

This Regulation governs the recordkeeping requirements for human resources programs.

##### **19-721.01. STATEMENT OF POLICY**

Each agency shall establish and maintain all records required by State law or DSHR concerning human resources programs.

##### **19-721.02. EMPLOYEE RECORDS**

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A. Each agency shall establish and maintain an official human resources file for each employee which shall include, but not necessarily be limited to, the following:

1. Employment application;
2. All human resources actions reflecting the employee's work history with the agency;
3. Documentation directly related to the employee's work record;
4. All performance evaluations; and
5. Information for nonexempt employees as required by the US Department of Labor.

B. An employee's official human resources file shall be available for the employee's review upon request.

### 19-721.03. RECORDS RELEASE

A. In response to requests for information from human resources records, agencies may provide, pursuant to the Freedom of Information Act, an employee's name, date of employment, title, sex, and race. The determination to disclose other types of information should be made on a case-by-case basis. Requests for salary information should be answered in accordance with the Freedom of Information Act. (*Refer to Section 19-703.05.*)

B. In responding to requests for information concerning current or former employees by prospective employers under Section 41-1-65 of the South Carolina Code of Laws, agencies may provide information as follows:

1. Agencies responding to oral requests for information may disclose an employee's or former employee's dates of employment, pay level, and wage history.

2. Agencies responding to written requests may disclose the following information to which an employee or former employee may have access:

- a. Written employee evaluations;
- b. Official human resources notices that formally record the reasons for separation;
- c. Whether the employee was voluntarily or involuntarily released from service and the reason for the separation; and
- d. Information about job performance.

3. Agencies shall not knowingly or recklessly release or disclose false information.

4. Responses to requests under Section 41-1-65 of the South Carolina Code of Laws should be considered in conjunction with the Freedom of Information Act.

## DEPARTMENT OF ENVIRONMENTAL SERVICES

## NOTICE OF GENERAL PUBLIC INTEREST

Section IV of R.61-98, the State Underground Petroleum Environmental Response Bank (SUPERB) Site Rehabilitation and Fund Access Regulation, requires that the Department of Environmental Services evaluate and certify site rehabilitation contractors to perform site rehabilitation of releases from underground storage tanks under the State Underground Petroleum Environmental Response Bank (SUPERB) Act.

Class I Contractors perform work involving the collection and interpretation of investigative data; the evaluation of risk; and/or the design and implementation of corrective action plans. Class I applicants must satisfy registration requirements for a Professional Engineer or Geologist in South Carolina. Class II Contractors perform work involving routine investigative activities (e.g., soil or ground water sampling, well installation, aquifer testing) where said activities do not require interpretation of the data and are performed in accordance with established regulatory or industry standards.

Pursuant to Section IV.B.1., the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and/or individuals listed below, please submit your comments in writing, no later than **October 28, 2024** to:

Contractor Certification Program  
South Carolina Department of Environmental Services  
Bureau of Land and Waste Management - Underground Storage Tank Program  
Attn: Michelle Dennison  
2600 Bull Street  
Columbia, SC 29201

The following company has applied for certification as Underground Storage Tank Site Rehabilitation Contractor:

**Class I**

**Zavis Environmental**  
**Attn: Michael Zavislak**  
**101 Rice Bent Way, Ste 9**  
**Columbia, SC 29229**

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF GENERAL PUBLIC INTEREST

In accordance with Section 44-7-200(D), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication on **September 27, 2024**, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Certificate of Need Program, 2100 Bull Street, Columbia, South Carolina 29201, at (803) 545-4200, or by email at [coninfo@dph.sc.gov](mailto:coninfo@dph.sc.gov).

**Affecting ALL 46 Counties**  
**Masters Infusion LLC, d/b/a Vital Care of North Augusta**

## 100 NOTICES

Establishment of a Specialty Home Health Agency to provide home infusion services in all 46 Counties at a total project cost of \$21,945.00.

### Affecting Horry County

#### **PruittHealth - Conway, LLC d/b/a PruittHealth – Conway**

Construction and relocation of a nursing home with 88 nursing home beds and the addition of 12 nursing home beds for a total of 100 nursing home beds at a total project cost of \$34,717,662.00.

### Affecting Orangeburg County

#### **Orangeburg Community Healthcare, LLC, d/b/a Oaks Post Acute**

Renovation of an existing 122 bed nursing home facility and the addition of 42 nursing home beds for a total of 164 bed nursing home facility at a total project cost of \$800,909.00.

In accordance with Section 44-7-210(A), Code of Laws of South Carolina, and Regulation 61-15, the public and affected persons are hereby notified that for the following projects, applications have been deemed complete, and the review cycle has begun. A proposed decision will be made no earlier than 30 days, but no later than 90 days, from **September 27, 2024**. “Affected persons” have 30 days from the above date to submit requests for a public hearing to Certificate of Need Program, 2100 Bull Street, Columbia, South Carolina 29201. If a public hearing is timely requested, the Department’s decision will be made after the public hearing, but no later than 120 days from the above date. For further information call (803) 545-4200 or email [coninfo@dph.sc.gov](mailto:coninfo@dph.sc.gov).

### Affecting Anderson County

#### **AnMed Encompass Health Rehabilitation Hospital, LLC d/b/a AnMed Health Rehabilitation Hospital, an Affiliate of AnMed Health and Encompass Health Corporation**

Construction for the addition of 16 rehabilitation beds for a total of 76 rehabilitation beds and the addition of 11,405 sf at a total project cost of \$13,470,000.00.

### Affecting York County

#### **TSI South, LLC d/b/a Vital Care of Rock Hill**

Establishment of a Specialty Home Health Agency to provide home infusion services in York County at a total project cost of \$13,000.00.

**ATTORNEY GENERAL**  
**CHAPTER 13**

Statutory Authority: 1976 Code Sections 35-11-100, et seq.

**Notice of Drafting:**

The Office of the Attorney General proposes to repeal certain regulations previously adopted under the South Carolina Anti-Money Laundering Act. Interested persons may submit comments to J. Louis Cote III, Senior Assistant Attorney General, Office of the S.C. Attorney General, P.O. Box 11549, Columbia, SC 29211-1549. To be considered, comments must be received no later than 5:00 p.m. on October 28, 2024, the close of the drafting comment period.

**Synopsis:**

The Office of the Attorney General proposes to repeal R.13-2101 through 13-2701 which were adopted under the South Carolina Anti-Money Laundering Act. On July 02, 2024, the South Carolina Uniform Money Services Act went into effect, which amended the South Carolina Anti-Money Laundering Act to incorporate provisions of the Money Transmission Modernization Act. Under the new law, these regulations are no longer necessary or appropriate.

Legislative review of the proposed regulations will be required.

**ATTORNEY GENERAL**  
**CHAPTER 13**

Statutory Authority: 1976 Code Sections 35-1-101, et seq.

**Notice of Drafting:**

The Office of the Attorney General proposes to adopt regulations to implement provisions of the South Carolina Uniform Securities Act of 2005 related to agent and investment adviser representative registrations. Interested persons may submit comments to J. Louis Cote III, Senior Assistant Attorney General, Office of the S.C. Attorney General, Securities Division, P.O. Box 11549, Columbia, SC 29211-1549. To be considered, comments must be received no later than 5:00 p.m. on October 28, 2024, the close of the drafting comment period.

**Synopsis:**

The Office of the Attorney General proposes to update, amend, and promulgate regulations regarding agent and investment adviser representative exams, registrations, and continuing education requirements.

Legislative review of the proposed regulations will be required.

**ATTORNEY GENERAL**  
**CHAPTER 13**

Statutory Authority: 1976 Code Sections 35-1-101, et seq.

**Notice of Drafting:**

The Office of the Attorney General proposes to adopt regulations to implement provisions of the South Carolina Uniform Securities Act of 2005 related to exemptions from certain registration requirements for securities offerings, brokers and investment advisers. Interested persons may submit comments to J. Louis Cote



## **102 DRAFTING NOTICES**

III, Senior Assistant Attorney General, Office of the S.C. Attorney General, Securities Division, P.O. Box 11549, Columbia, SC 29211-1549. To be considered, comments must be received no later than 5:00 p.m. on October 28, 2024, the close of the drafting comment period.

### **Synopsis:**

The Office of the Attorney General proposes to update, amend, and promulgate regulations regarding exemptions from registrations requirements, including for securities offerings relying on S.C. Code Ann Section 35-1-202(2), advisers to certain private funds, and merger and acquisition brokers.

Legislative review of the proposed regulations will be required.

### **CLEMSON UNIVERSITY**

#### **CHAPTER 27**

Statutory Authority: 1976 Code Section 46-37-20

### **Notice of Drafting:**

Clemson University will be reviewing and updating the regulation of Honey Bees pursuant to S.C. Code, Title 46, Chapter 37, to provide greater clarity and understanding of the regulations as used by/impacting honey bee producers.

Interested parties should submit written comments to Dr. Stephen E. Cole, Director, Regulatory Services, Clemson University, 511 Westinghouse Road, Pendleton, SC 29670. To be considered, comments should be received no later than October 31, 2024, the close of the comment period.

### **Synopsis:**

The proposed amendments will correct grammatical errors, provide clarification of certain definitions and terms as well as some reorganization of the overall formatting and subject matter flow of the regulations.

These proposed regulations will require legislative action.

### **STATE BOARD OF FINANCIAL INSTITUTIONS**

#### **CHAPTER 15**

Statutory Authority: 1976 Code Section 34-26-210

### **Notice of Drafting:**

The South Carolina State Board of Financial Institutions proposes to amend R.15-47. Interested persons may submit written comments to Kathy Bickham, Commissioner of Banking, State Board of Financial Institutions, 1205 Pendleton Street, Suite 306, Columbia, S.C. 29201.

### **Synopsis:**

R.15-47 establishes procedures for credit union mergers. The State Board of Financial Institutions proposes to amend this regulation to simplify and clarify the process, and address some industry concerns with the existing regulation.

Legislative review of this proposal is not required pursuant to Section 1-23-120(H)(2) and Section 34-1-110(A)(3), as it seeks to permit “cooperative credit unions to engage in any activity authorized for federally chartered credit unions by federal law or by regulation of the National Credit Union Administration.”

**DEPARTMENT OF NATURAL RESOURCES**  
CHAPTER 123

Statutory Authority: 1976 Code Sections 50-11-860, 50-11-2200 and 50-11-2210

**Notice of Drafting:**

The Department of Natural Resources proposes to amend Regulation 123-204 “Additional Regulations Applicable to Specific Properties.” The subject of the proposed action is to amend the regulations to prescribe authorized uses of SCDNR properties. This includes closing access to Deveaux Bank, including all intertidal areas, between March 15 and October 15 to protect nesting and migrating sea and shorebirds. Any person interested may submit written comments to Emily Cope, Deputy Director, Wildlife & Freshwater Fisheries Division, S.C. Department of Natural Resources, Post Office Box 167, Columbia, SC 29202.

**Synopsis:**

Amended regulations will include the closure of Deveaux Bank to address disturbance of important nesting and wildlife areas. Areas above the high tide line are closed year-round, as well as any designated bird nesting areas. This regulation closes all access to Deveaux Bank, including the intertidal area, between March 15 and October 15 annually. This area has experienced significant erosion and was further impacted by recent storm events.

Legislative review of the proposed regulations will be required.

**DEPARTMENT OF NATURAL RESOURCES**  
CHAPTER 123

Statutory Authority: 1976 Code Section 50-11-1910

**Notice of Drafting:**

The Department of Natural Resources proposes to add Regulation 123-56 “Deer Processors and Donated Deer Processing Fee Recovery”. The subject of the proposed action is to promulgate regulations to permit deer processors to process legally taken female (doe) deer donated by a hunter or deer depredation permittee and recover the fee of processing the deer from a person other than the individual who donated the deer. Any person interested may submit written comments to Emily Cope, Deputy Director, Wildlife & Freshwater Fisheries Division, S.C. Department of Natural Resources, Post Office Box 167, Columbia, SC 29202.

**Synopsis:**

These new regulations will provide the necessary guidelines to implement SC Code of Laws Section 50-11-1910(B) by providing direction for deer processors to obtain a permit to process legally taken female (doe) deer donated by a hunter or deer depredation permittee and recover the fee of processing the deer from a person other than the individual who donated the deer.

Legislative review of the proposed regulations will be required.

## 104 DRAFTING NOTICES

**DEPARTMENT OF NATURAL RESOURCES**  
**CHAPTER 123**  
Statutory Authority: 1976 Code Section 50-11-546

**Notice of Drafting:**

The Department of Natural Resources proposes to add Regulation 123-57 “Electronic Harvest Reporting of Big Game – SC Game Check.” The subject of the proposed action is to add the regulations to prescribe details of electronic harvest reporting for big game (deer, wild turkey, and black bear). SC Code Section 50-11-546 was amended effective July 1, 2024, to make electronic harvest reporting applicable to all big game species. Any person interested may submit written comments to Emily Cope, Deputy Director, Wildlife & Freshwater Fisheries Division, S.C. Department of Natural Resources, Post Office Box 167, Columbia, SC 29202.

**Synopsis:**

The proposed regulations provide for the implementation of SC Code of Laws 50-11-546 to require electronic harvest reporting for all big game species (deer, wild turkey, and black bear). Regulations prescribe reporting methods and reporting elements required. Additionally, the regulation provides for a confirmation number to be issued to the individual reporting.

Legislative review of the proposed regulations will be required.

**DEPARTMENT OF NATURAL RESOURCES**  
**CHAPTER 123**

Statutory Authority: 1976 Code Sections 50-1-60, 50-1-200, 50-1-220, 50-9-640, 50-9-650, 50-11-10, 50-11-105, 50-11-300, 50-11-310, 50-11-315, 50-11-320, 50-11-365, 50-11-390, 50-11-410, 50-11-430, 50-11-500, 50-11-525, 50-11-530, 50-11-540, 50-11-544, 50-11-546, 50-11-580, 50-11-2200 and 50-11-2210

**Notice of Drafting:**

The Department of Natural Resources proposes to amend Regulations 123-40 Wildlife Management Area Regulations, 123-51 Turkey Hunting Rules and Seasons, and 123-53 Bear Hunting Rules and Seasons. The subject of the proposed action is to amend seasons, bag limits, and methods of hunting and taking of wildlife on existing Wildlife Management Areas. Any person interested may submit written comments to Emily Cope, Deputy Director, Wildlife & Freshwater Fisheries Division, S.C. Department of Natural Resources, Post Office Box 167, Columbia, SC 29202.

**Synopsis:**

These amended regulations will establish seasons, bag limits, and methods of take on Wildlife Management Areas including the establishment of new Wildlife Management Areas. Amended regulations will modify turkey seasons to comply with statute and expand bear hunting opportunity in Game Zone 4.

Legislative review of the proposed regulations will be required.

Document No. 5302  
**SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY**  
CHAPTER 37  
Statutory Authority: 1976 Code Sections 23-23-10 et seq.

37-024. Investigation of Events Requiring Withdrawal of Certification; Notification to Officer.

**Preamble:**

S.C. Code Section 23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code Section 23-23-10 et seq. The proposed regulation will state when the Law Enforcement Training Council may initiate an investigation into misconduct and notification requirements to the Officer.

Section-by-Section Discussion:

37-024. This section explains when the Law Enforcement Training Council may initiate an investigation into reported events which require withdrawal of a law enforcement officer's certification. The section also states requirements for notification to the Officer.

The Notice of Drafting was published in the *State Register* on May 24, 2024.

**Notice of Public Hearing and Opportunity for Public Comment:**

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulations at a public hearing to be conducted by the Law Enforcement Training Council and the South Carolina Criminal Justice Academy on November 18, 2024, to be held in the main administrative building at 5400 Broad River Road, Columbia, South Carolina 29212. The meeting will commence at 10:00 a.m. at which time the Academy will consider oral comments noted in an agenda to be published ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy, are asked to provide written copies of their presentation for record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulations by writing to Rebecca S. Williams, Office of General Counsel, South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, South Carolina 29212. Written comments must be received no later than 5:00pm on November 15, 2024. Written comments received will be considered by the staff in formulating the final proposed regulations for the public hearing on November 18, 2024, as noticed above. Written comments received by the deadline will be submitted to the Law Enforcement Training Council and the South Carolina Criminal Justice Academy in summary of public comments for consideration at the public hearing.

**Preliminary Fiscal Impact Statement:**

There will be no fiscal impact from this change.

**Statement of Need and Reasonableness:**

DESCRIPTION OF REGULATION:

Purpose: The purpose of the proposed changes is to clarify that the Law Enforcement Training Council may initiate an investigation into allegations of misconduct to include when someone provides materially false information to the Criminal Justice Academy. The proposed changes also clarify that where an investigation

## 106 PROPOSED REGULATIONS

indicates misconduct, an attorney from the Criminal Justice Academy shall prosecute the allegation pursuant to R.37-103 and a member of the Council shall be the hearing officer.

Legal Authority: 1976 Code Section 23-23-10 et seq.

Plan for Implementation: The proposed changes will take effect upon approval by the General Assembly and publication in the State Register.

### DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The proposed changes will clarify when the Law Enforcement Training Council may initiate an investigation into alleged misconduct and the procedures for when that investigation indicates misconduct occurred.

### DETERMINATION OF COSTS AND BENEFITS:

This regulation will ensure potential misconduct is investigated and prosecuted which will increase the public's trust in law enforcement.

### UNCERTAINTIES OF ESTIMATES:

Unknown, but minimal if they exist.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Not applicable.

### DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

Not-applicable.

### Statement of Rationale:

Revisions to this regulation are necessary to ensure potential misconduct is investigated and prosecuted when necessary.

### Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

Document No. 5304  
**SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY**  
CHAPTER 37  
Statutory Authority: 1976 Code Sections 23-23-10 et seq.

37-108. Sanctions.

**Preamble:**

S.C. Code Section 23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code Section 23-23-10 et seq. The proposed changes will update the language to be consistent with rest of the Chapter.

Section-by-Section Discussion:

37-108. This section lists the possible sanctions the Law Enforcement Training Council may impose where a candidate/officer/operator is found to have committed misconduct as defined by R.37-025, R.37-026, R.37-073 and/or R.37-074.

The Notice of Drafting was published in the *State Register* on May 24, 2024.

**Notice of Public Hearing and Opportunity for Public Comment:**

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulations at a public hearing to be conducted by the Law Enforcement Training Council and the South Carolina Criminal Justice Academy on November 18, 2024, to be held in the main administrative building at 5400 Broad River Road, Columbia, South Carolina 29212. The meeting will commence at 10:00 a.m. at which time the Academy will consider oral comments noted in an agenda to be published ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy, are asked to provide written copies of their presentation for record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulations by writing to Rebecca S. Williams, Office of General Counsel, South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, South Carolina 29212. Written comments must be received no later than 5:00pm on November 15, 2024. Written comments received will be considered by the staff in formulating the final proposed regulations for the public hearing on November 18, 2024, as noticed above. Written comments received by the deadline will be submitted to the Law Enforcement Training Council and the South Carolina Criminal Justice Academy in summary of public comments for consideration at the public hearing.

**Preliminary Fiscal Impact Statement:**

There will be no fiscal impact from this change.

**Statement of Need and Reasonableness:**

DESCRIPTION OF REGULATION:

Purpose: The purpose of the proposed changes is to update the burden of proof to be consistent with the rest of the Chapter.

Legal Authority: 1976 Code Section 23-23-10 et seq.

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Plan for Implementation: The proposed changes will take effect upon approval by the General Assembly and publication in the State Register.

### DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The proposed changes will clarify that the listed sanctions may be imposed by the Council where a candidate/officer/operator is found by preponderance of the evidence to have committed misconduct as defined by R.37-025, R.37-026, R.37-073 and/or R.37-074.

### DETERMINATION OF COSTS AND BENEFITS:

The changes will provide consistency throughout the Chapter which make the regulations easier to understand.

### UNCERTAINTIES OF ESTIMATES:

Unknown, but minimal if they exist.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Not applicable.

### DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

Not-applicable.

### Statement of Rationale:

Revisions are necessary to create consistency within Chapter 37.

### Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

Document No. 5305

**DEPARTMENT OF EMPLOYMENT AND WORKFORCE**  
**CHAPTER 47**

Statutory Authority: 1976 Code Sections 41-29-110 and 41-29-230

47-6. Benefit Ratio for Zero Taxable Wages.

### Preamble:

The Department of Employment and Workforce proposes amending R.47-6, Benefit Ratio for Zero Taxable Wages, to conform with Section 3303(a) of the Federal Unemployment Tax Act, which prohibits assignment of an unemployment insurance tax rate of less than one percent to a new or newly covered employer with less than one year of experience. To maintain compliance with the Federal Unemployment Tax Act, the Department proposes this amendment to R.47-6 to ensure that new employers are assigned a rate of not less than one percent.

This amendment is proposed to maintain compliance with federal law and exempt from legislative review

pursuant to Section 1-23-120(H)(1) of the South Carolina Administrative Procedures Act.

Section-by-Section Discussion:

47-6. Benefit Ratio for Zero Taxable Wages.

- A. Addition of “or a rate of one percent, whichever is higher.”
- B. No change.

The Notice of Drafting was published in the *State Register* on April 26, 2024.

**Notice of Public Hearing and Opportunity for Public Comment:**

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be heard before the Honorable Robert L. Reibold, beginning at 10:00 a.m. on Monday, November 4, 2024, at the Administrative Law Court, Edgar A. Brown Building, Suite 224, 1205 Pendleton Street, Columbia, South Carolina 29201. If qualifying requests pursuant to Section 1-23-110(A)(3) are not timely received, the hearing will be canceled.

Interested persons may submit written comments to Ellen Andrews-Morgan, Director of Governmental Affairs, SC Department of Employment and Workforce, P.O. Box 995, Columbia, SC 29202 or by emailing RegulationComments@dew.sc.gov. To be considered, comments must be received no later than 5:00 p.m. on October 28, 2024.

**Statement of Need and Reasonableness:**

DESCRIPTION OF REGULATION: 47-6. Benefit Ratio for Zero Taxable Wages.

Purpose: Unemployment Compensation is a federal-state partnership based upon federal law administered by each state under state law in conformity with requirements set forth in the Social Security Act of 1935 and the Federal Unemployment Tax Act. The purpose of this amendment is to ensure that R.47-6 conforms with federal law.

Chapter 31 of Title 41 of the S.C. Code establishes twenty unemployment insurance tax classes with each employer eligible for an experience rating assigned to one of the twenty classes based on the employer’s benefit-ratio. For new employers with less than a year of experience that do not yet qualify for an experience rating, Section 41-31-40 prohibits assignment of a rate less than the rate applicable to class twelve and R.47-6 presently provides for assignment of the tax class twelve rate.

The class twelve rate is determined annually by a method of calculation prescribed by Section 41-31-50 that can yield a rate less than one percent, but assignment of a rate less than one percent to a new or newly covered employer with less than one year of experience is prohibited by Section 3303(a) of the Federal Unemployment Tax Act. This amendment to R.47-6 provides for new employers to be assigned tax class twelve or a rate of one percent, whichever is higher, to maintain compliance with the Federal Unemployment Tax Act when tax class twelve is assigned a rate lower than one percent.

Legal Authority: 1976 Code Sections 41-29-110 and 41-29-230.

Plan for Implementation: The amendments will take legal effect upon publication in the *State Register*. Department personnel will then take appropriate steps to inform the regulated community of the amendments to include notice on the Department’s website.



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### DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The proposed amendments are necessary for compliance with federal law. State laws governing the administration of the Unemployment Insurance program must conform with requirements set forth in the Social Security Act of 1935 and the Federal Unemployment Tax Act. If state law meets minimum federal requirements under the Federal Unemployment Tax Act and Title III of the Social Security Act, which includes the requirement that new employers pay a rate of at least one percent, then the state's employers are eligible for certain significant federal tax credits against the 6.0% federal unemployment tax levied on wages up to \$7,000 a year per employee. Failure to promulgate this regulation to maintain conformity with federal law could result in a loss of these credits for South Carolina employers.

### DETERMINATION OF COSTS AND BENEFITS:

Neither the state nor its political subdivisions will incur additional cost through implementation of this amendment. Existing staff and resources will be utilized to implement this amendment to the regulation. Amendment of this regulation will benefit the regulated community by maintaining eligibility of South Carolina employers for significant federal tax credits.

### UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the cost to the state.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment or public health.

### DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

There will be no detrimental effect on the environment and public health of this State if these regulations are not implemented.

### **Text:**

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

Document No. 5306  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**BUILDING CODES COUNCIL**  
CHAPTER 8

Statutory Authority: 1976 Code Sections 6-8-20 and 40-1-70

8-150. Continuing Education.

### **Preamble:**

The South Carolina Building Codes Council proposes to amend R.8-150(6)(F) regarding the limitation on reimbursement for continuing education to 12 hours per year for building code enforcement officers.

Section-by-Section Discussion:

8-150(1)-(5). No change.

8-150(6)(A)-(E). No change.

8-150(6)(F). Strike the limitation “for each year” and “12” credit hours and replace with “a total of 24” credit hours per registration cycle. Add “and the Council may limit reimbursement of continuing education to a maximum of 12 hours per year.”

8-150(6)(G). No change.

8-150(7)-(10). No change.

A Notice of Drafting was published in the *State Register* on July 26, 2024.

**Notice of Public Hearing and Opportunity for Public Comment:**

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court on January 6, 2025, at 2:00 P.M. Written comments may be directed to Maggie Smith, Board Executive, Building Codes Council, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than October 28, 2024. If qualifying requests pursuant to Section 1-23-110(A)(3) are not timely received, the hearing will be canceled.

**Preliminary Fiscal Impact Statement:**

There will be no cost incurred by the State or any of its political subdivisions for these regulations.

**Statement of Need and Reasonableness:**

The South Carolina Building Codes Council proposes to amend R.8-150(6)(F) regarding the limitation on reimbursement for continuing education to 12 hours per year for building code enforcement officers. Specifically, the regulation, as written, limits access to funding for training that exceeds 12 hours per year. The amendment is necessary to modify the language to allow reimbursement in excess of 12 hours under certain circumstances. The amendment is reasonable in that it vests in the Board the discretion to limit reimbursement to a maximum of 12 hours per year, the existing standard, if the Board deems it necessary.

DESCRIPTION OF REGULATION:

Purpose: The South Carolina Building Codes Council proposes to amend R.8-150(6)(F) regarding the limitation on reimbursement for continuing education to 12 hours per year for building code enforcement officers.

Legal Authority: S.C. Code Sections 6-8-20 and 40-1-70.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the revised regulation and post the revised regulations on the agency’s website.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The South Carolina Building Codes Council proposes to amend R.8-150(6)(F) regarding the limitation on reimbursement for continuing education to 12 hours per year for building code enforcement officers. Specifically, the regulation, as written, limits access to funding for training that exceeds 12 hours per year. The amendment is necessary to modify the language to allow reimbursement in excess of 12 hours under certain

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circumstances. The amendment is reasonable in that it vests in the Board the discretion to limit reimbursement to a maximum of 12 hours per year, the existing standard, if the Board deems it necessary.

### DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

### UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

### DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

There will be no detrimental effect on the environment and public health of this State if these regulations are not implemented.

### Statement of Rationale:

The South Carolina Building Codes Council proposes to amend R.8-150(6)(F) regarding the limitation on reimbursement for continuing education to 12 hours per year for building code enforcement officers. Specifically, the regulation, as written, limits access to funding for training that exceeds 12 hours per year. The amendment is anticipated to modify the language to allow reimbursement in excess of 12 hours under certain circumstances.

### Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

Document No. 5307  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**STATE BOARD OF COSMETOLOGY**  
CHAPTER 35  
Statutory Authority: 1976 Code Sections 40-13-60 and 40-13-70

35-13. Out of State Applicants.

### Preamble:

The State Board of Cosmetology proposes revising its regulations regarding licensure for out-of-state applicants.

### Section-by-Section Discussion:

35-13. Strike “certified” in the first sentence. Add space between “may” and “be” in the first sentence. Add language requiring application and fee. Add language creating option for licensure by endorsement by demonstrating licensure in another state for two years and completing four hours of continuing education. Add

language stating continuing education hours will satisfy continuing education requirements for renewal of license for the subsequent licensing period.

A Notice of Drafting was published in the *State Register* on August 23, 2024.

**Notice of Public Hearing and Opportunity for Public Comment:**

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 10:00 AM on January 8, 2025. Written comments may be directed to Tracy Adams, Board Executive, Board of Cosmetology, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than 5:00 p.m., on October 28, 2024. If qualifying requests pursuant to Section 1-23-110(A)(3) are not timely received, the hearing will be canceled.

**Preliminary Fiscal Impact Statement:**

There will be no cost incurred by the State or any of its political subdivisions for these regulations.

**Statement of Need and Reasonableness:**

The proposed regulations would be amended to expand the ways out-of-state applicants, who are licensed in another state, may become licensed in South Carolina. This proposed regulation would allow applicants who have been licensed for two years in another state and whose licenses are in good standing to complete four hours of South Carolina continuing education as an alternative means of licensure in addition to licensure by passage of a national exam. The regulation is necessary as the state has experienced an increasing number of applicants for licensure who have demonstrated competency through their state's licensure laws and who have practiced successfully in their home states but who cannot be licensed in South Carolina because their state law required a different examination than South Carolina. The proposed regulation is reasonable in that it retains the current standard of passage of a national exam but expands upon that and offers options that still afford the proper protections to the public without being unduly restrictive. Additionally, the requirement for continuing education in sanitation is a requirement all licensees practicing in this state must satisfy, therefore the out-of-state applicant is not being burdened with any additional requirements other than what a licensee would be required to do, particularly since the continuing education for endorsement licensure will carry over to the first renewal cycle.

**DESCRIPTION OF REGULATION:**

**Purpose:** The proposed regulation would allow applicants who have been licensed for two years in another state and whose licenses are in good standing to complete four hours of South Carolina continuing education as an alternative means of licensure by endorsement in addition to licensure by passage of a national exam.

**Legal Authority:** 1976 Code Sections 40-13-60 and 40-13-70.

**Plan for Implementation:** The revised regulations will take effect upon approval by the General Assembly and upon publication in the *State Register*. LLR will notify licensees of the revised regulation and post the revised regulations on the agency's website.

**DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:**

The proposed regulations would be amended to expand the ways out-of-state applicants, who are licensed in another state, may become licensed in South Carolina. The proposed regulation would allow applicants who have been licensed for two years in another state and whose licenses are in good standing to complete four hours

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of South Carolina continuing education as an alternative means of licensure, in addition to licensure by passage of a national exam. The regulation is necessary as the state has experienced an increasing number of applicants for licensure who have demonstrated competency through their state's licensure laws and who have practiced successfully in their home states but who cannot be licensed in South Carolina because their state law required a different examination than South Carolina. The proposed regulation is reasonable in that it retains the current standard of passage of a national exam but expands upon that and offers options that still afford the proper protections to the public without being unduly restrictive. Additionally, the requirement for continuing education in sanitation is a requirement all licensees practicing in this state must satisfy, therefore the out-of-state applicant is not being burdened with any additional requirements other than what a licensee would be required to do, particularly since the continuing education for endorsement licensure will carry over to the first renewal cycle.

### DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

### UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment or public health.

### DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

There will be no detrimental effect on the environment or public health if these regulations are not implemented.

### Statement of Rationale:

The proposed regulation would allow applicants who have been licensed for two years in another state and whose licenses are in good standing to complete four hours of South Carolina continuing education as an alternative means of licensure by endorsement in addition to licensure by passage of a national exam.

### Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

Document No. 5309  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**STATE BOARD OF COSMETOLOGY**  
CHAPTER 35  
Statutory Authority: 1976 Code Sections 40-13-60 and 40-13-70

35-5.1. Licensure Application. (New)

**Preamble:**

The State Board of Cosmetology proposes revising its regulations to add a regulation requiring all applications for initial licensure, endorsement licensure, and renewal and reinstatement licensure to be accompanied by a current 2 x 2 photograph that will be affixed to the license issued.

Section-by-Section Discussion:

35-5.1. New section added to require a current 2x2 photograph to be affixed to all licenses.

A Notice of Drafting was published in the *State Register* on June 28, 2024.

**Notice of Public Hearing and Opportunity for Public Comment:**

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 10:00 AM on December 16, 2024. Written comments may be directed to Tracy Adams, Board Executive, Board of Cosmetology, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than 5:00 p.m., on October 28, 2024. If qualifying requests pursuant to Section 1-23-110(A)(3) are not timely received, the hearing will be canceled.

**Preliminary Fiscal Impact Statement:**

There will be no cost incurred by the State or any of its political subdivisions for these regulations.

**Statement of Need and Reasonableness:**

These regulations would be amended to add that a current 2x2 photograph must be affixed to all licenses issued by the Board. The purpose of this regulation is to ensure that the individual the Board properly vets for licensure is the individual who is actually performing the services authorized by the license. The regulation is necessary to protect the public from fraudulent license lending and unlicensed practice, which creates potential safety issues for the unsuspecting public. The regulation is reasonable in that a 2x2 photograph can easily be taken and provided to the Board for the Board to affix to the license.

DESCRIPTION OF REGULATION:

Purpose: The Board proposes revising its regulations to add a regulation requiring all applications for initial licensure, endorsement licensure, and renewal and reinstatement licensure to be accompanied by a current 2 x 2 photograph that will be affixed to the license issued.

Legal Authority: 1976 Code Sections 40-13-60 and 40-13-70.

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Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the revised regulation and post the revised regulations on the agency's website.

### DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

These regulations would be amended to add that a current 2x2 photograph must be affixed to all licenses issued by the Board. The purpose of this regulation is to ensure that the individual the Board properly vets is the individual who is actually performing the services authorized by the license. The regulation is necessary to protect the public from fraudulent license lending and unlicensed practice, which creates potential safety issues for the unsuspecting public. The regulation is reasonable in that a 2x2 photograph can easily be taken and provided to the Board for the Board to affix to the license.

### DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

### UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

### DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

There will be no detrimental effect on the environment if these regulations are not implemented. As to the public health, if these regulations are not passed, the public will continue to be at risk of receiving services from individuals who have failed to demonstrate appropriate education, experience and competence as required by state law.

### Statement of Rationale:

The updated regulations will afford additional protections to the public to ensure that individuals who are providing services to the public are the same individuals who have been vetted by the board and have satisfied the legal requirements for licensure in this state.

### Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

Document No. 5310  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**SOUTH CAROLINA STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS**  
**AND LAND SURVEYORS**  
CHAPTER 49

Statutory Authority: 1976 Code Sections 40-1-70, 40-22-50(B), and 40-22-60

49-603. Units of credit.

**Preamble:**

The Board of Registration for Professional Engineers and Land Surveyors proposes to amend R.49-201 to correct a scrivener's error.

Section-by-Section Discussion:

49-603(5). Revise to reference R.49-602(C)(4).

A Notice of Drafting was published in the *State Register* on July 26, 2024.

**Notice of Public Hearing and Opportunity for Public Comment:**

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 10:00 AM on January 6, 2025. Written comments may be directed to Lenora Addison-Miles, Board Executive, Board of Registration for Professional Engineers and Surveyors, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than 5:00 p.m., on October 28, 2024. If qualifying requests pursuant to Section 1-23-110(A)(3) are not timely received, the hearing will be canceled.

**Preliminary Fiscal Impact Statement:**

There will be no cost incurred by the State or any of its political subdivisions for these regulations.

**Statement of Need and Reasonableness:**

The Board of Registration for Professional Engineers and Land Surveyors has determined it is necessary to amend R.49-603(5) to correct a scrivener's error made during a prior update to the regulations. Specifically, R.49-603(5) should be revised to reference R.49-602C(4) as opposed to 49-602(C)(5). The amendment is reasonable in that it limits changes to what is required to align cross-references with the existing provisions of the regulation.

DESCRIPTION OF REGULATION:

**Purpose:** The Board of Registration for Professional Engineers and Land Surveyors proposes to amend R.49-603(5) to correct a scrivener's error. Specifically, R.49-603(5) should be revised to reference R.49-602C(4) as opposed to 49-602(C)(5).

**Legal Authority:** 1976 Code Sections 40-1-70, 40-22-50(B), and 40-22-60.

**Plan for Implementation:** The revised regulations will take effect upon approval by the General Assembly and upon publication in the *State Register*. LLR will notify licensees of the revised regulation and post the revised regulations on the agency's website.



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### DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The Board of Registration for Professional Engineers and Land Surveyors has determined it is necessary to amend R.49-603(5) to correct a scrivener's error made during a prior update to the regulations. Specifically, R.49-603(5) should be revised to reference R.49-602C(4) as opposed to 49-602(C)(5). The amendment is reasonable in that it limits changes to what is required to align cross-references with the existing provisions of the regulation.

### DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

### UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

### DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

There will be no detrimental effect on the environment and public health of this State if these regulations are not implemented.

### Statement of Rationale:

The Board of Registration for Professional Engineers and Land Surveyors proposes to amend R.603(5) to correct a scrivener's error. Specifically, R.49-603(5) should be revised to reference R.49-602C(4) as opposed to 49-602(C)(5).

### Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

Document No. 5311

**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**SOUTH CAROLINA BOARD OF GENETIC COUNSELORS**  
CHAPTER 41

Statutory Authority: 1976 Code Sections 40-1-70 and 40-85-10(B)(1)(d)

41-1. Definitions. (New)

41-10. American Board of Genetic Counseling Certified Genetic Counselor Credential Recertification. (New)

41-20. American Board of Genetic Counseling Discipline. (New)

41-30. Continuing Education Requirements. (New)

41-40. License Renewal. (New)

41-50. Reinstatement of Lapsed Licenses. (New)

41-60. Limited Licenses. (New)

41-70. Name and Address Changes. (New)

- 41-80. Code of Ethics. (New)
- 41-90. Opinion Testimony. (New)
- 41-100. Recordkeeping and Patient Confidentiality. (New)
- 41-110. Applicability, Legal Effect, and Severability of Regulations. (New)

**Preamble:**

The Board of Genetic Counselors is proposing regulations to implement the requirements of Act 187 of the 2024 legislative session, which established the South Carolina Board of Genetic Counselors as a board administered by the Department of Labor, Licensing and Regulation, including but not limited to establishing minimum continuing education requirements, documentation requirements for supervisors of limited licensees, and requirements for reinstatement of lapsed licenses.

Section-by-Section Discussion:

- 41-1. Adding definitions for terms used in regulations.
- 41.10. Adding language instructing licensees on licensure if American Board of Genetic Counseling Certified Genetic Counselor Credential lapses.
- 41-20. Adding language instructing licensees on discipline if American Board of Genetic Counseling disciplines certification.
- 41-30. Clarifying continuing education requirements.
- 41-40. Implementing license renewal provisions of statute.
- 41-50. Implementing reinstatement of lapsed license provision of statute.
- 41-60. Establishing requirements for limited licenses.
- 41-70. Providing guidance on name and address change notification.
- 41-80. Adopting a code of ethics.
- 41-90. Establishing parameters of offering opinion testimony.
- 41-100. Establishing rules for recordkeeping and patient confidentiality.
- 41-110. Adding interpretation language.

The Notice of Drafting was published in the *State Register* on August 23, 2024.

**Notice of Public Hearing and Opportunity for Public Comment:**

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 2:00 PM on January 8, 2025. Written comments may be directed to Pam Dunkin, Board Executive, Board of Genetic Counselors, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than 5:00 p.m., on October 28, 2024. If qualifying requests pursuant to Section 1-23-110(A)(3) are not timely received, the hearing will be canceled.

**Preliminary Fiscal Impact Statement:**

There will be no cost incurred by the State or any of its political subdivisions for these regulations.

**Statement of Need and Reasonableness:**

The General Assembly passed Act 187 during the 2024 legislative session, establishing the Board of Genetic Counselors as a board under the umbrella of the South Carolina Department of Labor, Licensing and Regulation. The basic elements of licensure were incorporated into the law by way of the Act, but the regulations herein are necessary to implement the law and establish guidance on licensure, continuing education, ethics and discipline, at a minimum, for licensees of the board. The regulations herein are reasonable in that they are consistent with

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regulations promulgated for other professional and occupational licensing boards establishing minimum continuing education requirements, documentation requirements for supervisors of limited licensees, and requirements for reinstatement of lapsed licenses. They are also reasonable in that they are consistent with the grant of authority established by Act 187.

### DESCRIPTION OF REGULATION:

**Purpose:** The Board of Genetic Counselors is proposing regulations to implement the requirements of Act 187 of the 2024 legislative session, which established the South Carolina Board of Genetic Counselors as a board administered by the Department of Labor, Licensing and Regulation, including but not limited to establishing minimum continuing education requirements, documentation requirements for supervisors of limited licensees, and requirements for reinstatement of lapsed licenses.

**Legal Authority:** 1976 Code Sections 40-1-70 and 40-85-10(B)(1)(d).

**Plan for Implementation:** The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the revised regulation and post the revised regulations on the agency's website.

### DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the revised regulation and post the revised regulations on the agency's website.

### DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

### UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment or public health.

### DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

There will be no detrimental effect on the environment or public health if these regulations are not implemented. However, the General Assembly determined it was appropriate to regulate this profession, and these regulations are necessary to implement the law that established regulatory requirements. Therefore these regulations are vital to carrying out the will of the General Assembly as established by law.

### Statement of Rationale:

The Board of Genetic Counselors is proposing regulations to implement the requirements of Act 187 of the 2024 legislative session, which established the South Carolina Board of Genetic Counselors as a board administered by the Department of Labor, Licensing and Regulation, including but not limited to establishing minimum continuing education requirements, documentation requirements for supervisors of limited licensees, and requirements for reinstatement of lapsed licenses.

**Text:**

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

Document No. 5312  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**STATE BOARD OF MEDICAL EXAMINERS**  
CHAPTER 81

Statutory Authority: 1976 Code Sections 40-1-70, 40-47-10, 40-47-110, and 40-47-1010

81-120. Continued Professional Education for Physician Assistants. (New)

**Preamble:**

The State Board of Medical Examiners proposes adding regulations establishing continuing education requirements for PAs.

Section-by-Section Discussion:

81-120(A)-(C). New section establishing continuing education requirements for PAs.

A Notice of Drafting was published in the *State Register* on May 24, 2024.

**Notice of Public Hearing and Opportunity for Public Comment:**

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 10:00 AM on December 19, 2024. Written comments may be directed to Bob Horner, Counsel, Board of Medical Examiners, South Carolina Department of Labor, Licensing, and Regulation, Post Office Box 11289, Columbia, South Carolina 29211-1289, no later than 5:00 p.m., October 28, 2024. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

**Preliminary Fiscal Impact Statement:**

There will be no cost incurred by the State or any of its political subdivisions for these regulations.

**Statement of Need and Reasonableness:**

These regulations are necessitated by S.C. Code Section 40-47-1010, which provides that a license issued to a PA may be renewed biennially if the PA has demonstrated continuing education as required by Article 7. Article 7 establishes two guideposts for continuing education: (1) Section 40-47-965(B) (2), which provides that every two years, a PA must document four hours of continuing education related to approved procedures of prescribing and monitoring controlled substances, Schedules II-IV; and (2) Section 40-47-930(C)(6), which provides that the PA Committee may recommend requirements for continuing education to the Board. The regulations are reasonable in that the Board has adopted the recommendations of the PA Committee, which are based on certification requirements established by the certifying body for PAs, the National Commission on Certification of Physician Assistants (NNCPA) and on the existing statutory requirement set forth in Section 40-47-965(B)(2).

DESCRIPTION OF REGULATION:

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Purpose: The South Carolina Board of Medical Examiners proposes to promulgate regulations establishing continuing education requirements for PAs.

Legal Authority: 1976 Code Sections 40-1-70, 40-47-10, 40-47-110, and 40-47-1010.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the revised regulation and post the revised regulations on the agency's website.

### DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

These regulations are necessitated by S.C. Code Section 40-47-1010, which provides that a license issued to a PA may be renewed biennially if the PA has demonstrated continuing education as required by Article 7. Article 7 establishes two guideposts for continuing education: (1) Section 40-47-965(B) (2), which provides that every two years, a PA must document four hours of continuing education hours related to approved procedures of prescribing and monitoring controlled substances, Schedules II-IV; and (2) Section 40-47-930(C)(6), which provides that the PA Committee may recommend requirements for continuing education to the Board. The regulations are reasonable in that the Board has adopted the recommendations of the PA Committee, which are based on certification requirements established by the certifying body for PAs, the National Commission on Certification of Physician Assistances (NNCPA) and on the existing statutory requirement set forth in Section 40-47-965(B)(2).

### DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations. This would result in a cost-savings to the State.

### UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no detrimental effect on the environment and public health of this State if this regulation is implemented.

### DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

Failure to approve this regulation could be detrimental to the health of the citizens of this state. Continuing education ensures medical professionals keep up with the latest research and advancements in their field, which leads to better patient care. Continuing education helps medical professional maintain their skills and knowledge and stay current with changes in the healthcare industry. It can also provide hands-on experience with new approaches and tools that can improve the quality of care.

### Statement of Rationale:

The South Carolina Board of Medical Examiners proposes to promulgate regulations establishing continuing education requirements for PAs.

### Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

Document No. 5300  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**COMMISSIONERS OF PILOTAGE**  
CHAPTER 136

Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 54-15-10, and 54-15-140

- 136-012. Apprentice Selection Process.
- 136-013. Pilot and Apprentice Age Limitations.
- 136-015. Previous Maritime Experience, Apprentice Applicants.
- 136-060. Marine Casualties, Accidents and Other Reports.
- 136-061. Reports of Coast Guard Investigations.
- 136-075. Pilotage Areas.

**Preamble:**

The Commissioners of Pilotage for the Lower Coastal area propose to amend the following sections of the Code of Regulations: R.136-012, R.136-013, R.136-015, R.136-060, R.136-061, and R.136-075.

Section-by-Section Discussion:

- 136-012 A-C. No change.
- 136-012 D. No change.
- 136-012 D(1). “Academic.” remains. Add sections (a)-(d) and move and revise paragraph that followed “Academic” into (a) – (d). Content of (a) is unchanged from paragraph. Content of (b) is amended to break down two-year and four-year program computations. Sections (c) and (d) are new.
- 136-012 D(2)-(4). No change.
- 136-012 (E)-(G). No change.
- 136-013. Add A. to existing language and add new section B.
- 136-015A. No change.
- 136-015 B(1)-(9). No change.
- 136-015 B (10). Strike existing language and replace with new paragraph.
- 136-060 A-C. No change.
- 136-060 D. Amend section to break down reporting requirements for marine casualties and for serious marine incidents.
- 136-061 A. Add “when involving vessels under pilotage or involving the actions of a pilot licensed by the Commissioners” at the end of the paragraph.
- 136-061 B. No change.
- 136-075 A. Add “vessel manning and licensure requirements.” Clarify existing language concerning pilotage area, striking certain existing language and adding language stating the area extends to the Boundary Lines established in Federal Regulation.
- 136-075 B. Clarify that section relates to applicability of pilotage laws, regulations and policy to Federal Boundary Lines.
- 136-075 B (1)-(2). No change.
- 136-075 C. Strike boundary lines and add “where piloted vessels are restructured by draft and safe underkeel clearances, whichever is greater.”

The Notice of Drafting was published in the State Register on July 26, 2024.

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### Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 12:00 P.M. on January 6, 2025. Written comments may be directed to Laura Smith, Board Executive, Commissioners of Pilotage, South Carolina Department of Labor, Licensing, and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 P.M. on October 28, 2024. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

### Preliminary Fiscal Impact Statement:

There will be no cost incurred by the State or any of its political subdivisions for these regulations.

### Statement of Need and Reasonableness:

The Commissioners of Pilotage, Lower Coastal Area propose to amend Regulations 136-012, 136-015, 136-060, 136-061, and 136-075 to update the apprentice selection process, to revise the process to obtain Coast Guard investigations and report Coast Guard incidents to the Commissioners, to clarify references to Federal jurisdictional boundaries as they relate to pilotage waters, and to clarify pilotage waters for unmarked or minimally marked inlets.

### DESCRIPTION OF REGULATION:

**Purpose:** The Commissioners of Pilotage, Lower Coastal Area propose to amend Regulations 136-012, 136-015, 136-060, 136-061, and 136-075 to update the apprentice selection process, to revise the process to obtain Coast Guard investigations and report Coast Guard incidents to the Commissioners, to clarify references to Federal jurisdictional boundaries as they relate to pilotage waters, and to clarify pilotage waters for unmarked or minimally marked inlets.

**Legal Authority:** 1976 Code Sections 40-1-50, 40-1-70, 54-15-10, and 54-15-140.

**Plan for Implementation:** The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the revised regulation and post the revised regulations on the agency's website.

### DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The Commissioners of Pilotage, Lower Coastal Area aver that it is both reasonable and necessary to amend Regulations 136-012, 136-015, 136-060, 136-061, and 136-075 to update the apprentice selection process, to revise the process to obtain Coast Guard investigations and report Coast Guard incidents to the Commissioners, to clarify references to Federal jurisdictional boundaries as they relate to pilotage waters, and to clarify pilotage waters for unmarked or minimally marked inlets.

### DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

### UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment or public health.

**DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:**

There will be no detrimental effect on the environment and public health of this State if these regulations are not implemented.

**Statement of Rationale:**

The updated regulations, Regulations 136-012, 136-015, 136-060, 136-061, and 136-075, will revise the apprentice selection process, revise the process to obtain Coast Guard investigations and report Coast Guard incidents to the Commissioners, clarify references to Federal jurisdictional boundaries as they relate to pilotage waters, and clarify pilotage waters for unmarked or minimally marked inlets.

**Text:**

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

Document No. 5301  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**STATE BOARD OF SOCIAL WORK EXAMINERS**  
CHAPTER 110

Statutory Authority: 1976 Code Sections 40-1-70 and 40-63-70

110-1. Continuing Education Requirements.

**Preamble:**

The Board of Social Work Examiners proposes to amend continuing education requirements for licensees of the Board to conform to Act 158 of the 2024 legislative session.

Section-by-Section Discussion:

110-1A. No change.

110-1B. Strike language regarding effective date of 1990 for continuing education requirements. Add requirement that one hour of required continuing education be devoted to suicide assessment, treatment and management treatment.

110-1C-D. No change.

The Notice of Drafting was published in the *State Register* on June 28, 2024.

**Notice of Public Hearing and Opportunity for Public Comment:**

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 3:00 P.M. on December 10, 2024. Written comments may be directed to Pam Dunkin, Board Executive, South Carolina Board of Social Work Examiners, Department of Labor, Licensing, and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., October 28, 2024, or the hearing will be canceled.



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### **Preliminary Fiscal Impact Statement:**

There will be no cost incurred by the State or any of its political subdivisions.

### **Statement of Need and Reasonableness:**

The regulation is necessary as Act 158 of the 2024 legislative session requires one contact hour of continuing education in suicide assessment, treatment, and management treatment, which may be completed virtually, as a portion of the total continuing education requirement for license renewal as determined by the Board in regulation. Therefore, the Board has amended its continuing education regulation to provide that as a pre-requisite for biennial renewal of the practitioner's license, the licensee must complete a minimum of 40 contact hours of accepted professional continuing education per renewal period, of which one hour must be in suicide assessment, treatment and management treatment. The regulation is reasonable in that it only requires the amount prescribed by the new law.

### **DESCRIPTION OF REGULATION:**

**Purpose:** The Board of Social Work Examiners proposes to amend continuing education requirements for licensees of the Board to conform to Act 158 of the 2024 legislative session.

**Legal Authority:** 1976 Code Sections 40-1-70 and 40-63-10.

**Plan for Implementation:** The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the revised regulations and post the revised regulations on the agency's website.

### **DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS THEREIN AND EXPECTED BENEFITS:**

The regulation is necessary as Act 158 of the 2024 legislative session requires one contact hour of continuing education in suicide assessment, treatment, and management treatment, which may be completed virtually, as a portion of the total continuing education requirement for license renewal as determined by the Board in regulation. Therefore, the Board has amended its continuing education regulation to provide that as a pre-requisite for biennial renewal of the practitioner's license, the licensee must complete a minimum of 40 contact hours of accepted professional continuing education per renewal period, of which one hour must be in suicide assessment, treatment and management treatment. The regulation is reasonable in that it only requires the amount prescribed by the new law.

### **DETERMINATION OF COSTS AND BENEFITS:**

There is no cost incurred by the state.

### **UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates concerning the regulations.

### **EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

These regulations will have no effect on the environment. These regulations contribute to the board's function of protecting public health in the state of South Carolina.

### **DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:**

There will be no detrimental effect on the environment and public health of this State if these regulations are not implemented.

**Statement of Rationale:**

The Board of Social Work Examiners proposes to amend continuing education requirements for licensees of the Board to conform to Act 158 of the 2024 legislative session.

**Text:**

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

Document No. 5303

**DEPARTMENT OF SOCIAL SERVICES**

CHAPTER 114

Statutory Authority: 1976 Code Sections 43-1-80 and 63-9-360

114-4370. Certification of Adoption Investigators and Persons Obtaining Consents or Relinquishments.

**Preamble:**

The Department of Social Services is responsible for establishing and promulgating rules and regulations for the certification requirements and process for an adoption investigator. The proposed amendments will ensure that prospective investigators have the necessary educational and work experience to further the Department's mission to promote safety, permanency, stability, and well-being of children who need foster care and adoptive placements.

Section-by-Section Discussion:

Regulation 114-4370

1. Amended reference to statutory authority for promulgating the regulation
2. (A)(1), Amended definition of "person"
3. (A)(3), Updated a statutory cross reference
4. (A)(6), Updated a statutory cross reference
5. (B)(1) (a), (b), (c), (d), and (e) Amended to clarify certification requirements applicable to certain applicants and to re-letter items
6. (B)(2)(a), (b), (c), (d), and (e) Added subsection to further clarify certification requirements applicable to certain applicants
7. (B)(3)(c), Amended to clarify certification requirements related to professional and personal references
8. (B)(4)(a) and (b), Amended to clarify continuing education requirements
9. (C), Amended to rename the section
10. (C)(1)(a), (b), and (c), Amended to clarify the application, documentation, and fees required for initial certification
11. (D)(4) (a), (b), (c), and (d), Added to clarify documentation department employees must submit for recertification
12. (E)(1)(a), (b), and (c), Amended to reflect changes in fees associated with certification and recertification
13. (E)(2), Amended to give the department discretion to waive fees
14. (F)(1), Amended to clarify the procedure to file complaints
15. (F)(3)(e), Amended to enhance clarity

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### 16. (G)(2), Amended to correct a Code of Regulations cross reference

The Notice of Drafting was published in the *State Register* on June 28, 2024.

#### **Notice of Public Hearing and Opportunity for Public Comment:**

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be conducted at the Administrative Law Court before the Honorable Deborah Brooks Durden at Edgar A. Brown Building, 1205 Pendleton Street, Suite 224 Columbia South Carolina 29201 on November 12, 2024, at 1:00 p.m. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Written Comments may be directed to Melissa S. Lowe, Foster Care & Adoption Support Program Manager and State ICWA Manager, South Carolina Department of Social Services, 1535 Confederate Avenue, Post Office Box 1520, Columbia, South Carolina 29202 and by way of electronic mail to [commentsonchildcareregulations@dss.sc.gov](mailto:commentsonchildcareregulations@dss.sc.gov), no later than 5:00 p.m. on October 28, 2024.

#### **Preliminary Fiscal Impact Statement:**

The Department of Social Services estimates there will be no additional costs incurred by the State and its political subdivisions due to the promulgation of the proposed regulations.

#### **Statement of Need and Reasonableness:**

Regulation 114-4370 is being reviewed and amended to ensure that prospective investigators have the necessary educational and work experience to further the Department's mission to promote safety, permanency, stability, and well-being of children who need foster care and adoptive placements.

#### **DESCRIPTION OF REGULATION:**

**Purpose:** The Department of Social Services is proposing to amend Regulation 114-4370 to ensure that prospective investigators have the necessary educational and work experience to further the Department's mission to promote safety, permanency, stability, and well-being of children who need foster care and adoptive placements.

**Legal Authority:** 1976 Code Sections 43-1-80 and 63-9-360.

**Plan for Implementation:** The revised regulation will take effect upon approval by the General Assembly and upon publication in the *State Register*. The Department of Social Services will notify the applicable providers of the revised regulation and will post the regulations on the Department's website.

#### **DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:**

The Department of Social Services is proposing to amend Regulation 114-4370 to ensure that prospective investigators have the necessary educational and work experience to further the Department's mission to promote safety, permanency, stability, and well-being of children who need foster care and adoptive placements.

#### **DETERMINATION OF COSTS AND BENEFITS:**

The Department of Social Services estimates there will be no additional cost incurred by the State and its political subdivisions due to the promulgation of the proposed regulations. The proposed regulations are of benefit to persons interested in becoming certified to conduct investigations, assessments, home studies, etc. that

can be used to certify appropriateness of a prospective foster parents or adoptive parents. The proposed regulations put such persons on notice of the Department's standards and compel the Department to apply consistent standards in decisions to certify interested persons.

**UNCERTAINTIES OF ESTIMATES:**

There are no known uncertainties of cost estimates.

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

The regulation will have no effect on the environment. The regulation further public health interests because the regulation supports the Department's mission to promote safety, permanency, stability, and well-being of children who need foster care and adoptive placements.

**DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:**

There will be no detrimental effects on the environment and public health if the proposed amendments to Regulations 114-4370 are not implemented in this State.

**Statement of Rationale:**

The Department of Social Services is proposing to amend Regulation 114-4370 to ensure that prospective investigators have the necessary educational and work experience to further the Department's mission to promote safety, permanency, stability, and well-being of children who need foster care and adoptive placements.

**Text:**

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

Document No. 5308

**DEPARTMENT OF SOCIAL SERVICES**

**CHAPTER 114**

Statutory Authority: 1976 Code Section 63-11-30

114-4910. Child Placing Agencies; Definitions and Application Procedures.

114-4920. Administration and Organization of Child Placing Agencies.

114-4930. Requirements for Licenses and Types of Licenses.

114-4940. Relicensing Procedures.

114-4950. Confidentiality Requirements.

114-4960. Personnel Requirements.

114-4970. Child Placing Agency Records.

114-4980. Procedures and Practices of Child Placing Agencies.

**Preamble:**

As the administrator of the State's foster care system, the Department of Social Services is responsible for establishing and promulgating rules and regulations for the licensure of agencies engaged in the business of receiving children for care and maintenance related to foster care and adoption. The regulations governing licensing standards for child placing agencies (South Carolina Code of Regulations 114-4910, 4920, 4930, 4940,

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4950, 4960, 4970, and 4980) are being amended to make updates necessary to meet the current needs of the State's foster care and adoption systems.

### Section-by-Section Discussion:

#### 1. 114-4910

- (A), Defines key terms
- (B), Clarifies license application procedures
- (C), Clarifies license application procedures

#### 2. 114-4920

- (A), Provides standards for organizational administration
- (B), Provides standards for organizational governance
- (C), Provides standards for organizational charts
- (D), Provides standards for fee schedules
- (E), Establishes monitoring standards

#### 3. 114-4930

- (A), Explains application procedures
- (B), Describes the types of licenses issued by the Department
- (C), Establishes standards for the display of licenses
- (D), Establishes standards for compliance
- (E), States conditions for issuing a standard license
- (F), Establishes standards for issuing a temporary license
- (G), Provides standards for denial and revocation of a license
- (H), Describes administrative appeal process
- (I), Describes procedures for license amendments

#### 4. 114-4940

- (A), Outlines license renewal processes
- (B), Outlines license application processes
- (C), Outlines contents of license application

#### 5. 114-4950

- (A), Establishes confidentiality standards
- (B), Establishes information sharing standards

#### 6. 114-4960

- (A), Outlines personnel policy standards
- (B), Outlines staff qualifications and functions
- (C), Establishes staffing requirements
- (D), Outlines training and professional development requirements
- (E), Describes volunteer standards
- (F), Establishes standards for certified investigators

#### 7. 114-4970

- (A), Outlines standards for child record keeping

- (B), Outlines standards for birth family record keeping
- (C), Outlines standards for foster home record keeping
- (D), Establishes standards for adoption record keeping

8. 114-4980

- (A), Sets standards for foster family home licensing
- (B), Outlines standards for the monitoring of foster family homes
- (C), Describes procedures for license amendments
- (D), Outlines foster family home selection standards
- (E), Outlines case planning requirements
- (F), Outlines case plan monitoring requirements
- (G), Establishes general adoption services requirements
- (H), Sets forth general standards for services to families
- (I), Sets forth general standards for services to unmarried parents
- (J), Establishes requirements for adoption preservation services
- (K), Outlines requirements for pre and post adoption support of out-of-state foster children

The Notice of Drafting was published in the *State Register* on June 28, 2024.

**Notice of Public Hearing and Opportunity for Public Comment:**

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code of Laws, as amended, such matter will be heard before the Honorable Ralph King Anderson, III at the Administrative Law Court, Edgar A. Brown Building, 1205 Pendleton Street, Second Floor, Columbia, South Carolina 29201 on Monday, October 31, 2024, beginning at 10:00 a.m. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Written comments may be directed to Dawn Barton, Director, South Carolina Department of Social Services, Office of Permanency Management, 1535 Confederate Avenue, Post Office Box 1520, Columbia, South Carolina 29202, and by way of electronic mail to [dawn.barton@dss.sc.gov](mailto:dawn.barton@dss.sc.gov), no later than 5:00 p.m. on October 28, 2024.

**Preliminary Fiscal Impact Statement:**

The Department of Social Services estimates there will be no additional costs incurred by the State and its political subdivisions due to the promulgation of the proposed regulations.

**Statement of Need and Reasonableness:**

DESCRIPTION OF REGULATION:

Purpose: As the administrator of the State’s foster care system, the Department of Social Services is responsible for establishing and promulgating rules and regulations for the licensure of agencies engaged in the business of receiving children for care and maintenance related to foster care and adoption. The regulations governing licensing standards for child placing agencies (South Carolina Code of Regulations 114-4910, 4920, 4930, 4940, 4950, 4960, 4970, and 4980) are being amended to make updates necessary to meet the current needs of the State’s foster care and adoption systems.

Legal Authority: 1976 Code Section 63-11-30.

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Plan for Implementation: The revised regulation will take effect upon approval by the General Assembly and upon publication in the State Register. The Department of Social Services will notify the applicable providers of the revised regulations and will post the regulations on the Department's website.

### DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

As the administrator of the State's foster care system, the Department of Social Services is responsible for establishing and promulgating rules and regulations for the licensure of agencies and institutions engaged in the business of receiving children for care and maintenance related to foster care and adoption. The regulations governing licensing standards for child placing agencies (South Carolina Code of Regulations 114-4910, 4920, 4930, 4940, 4950, 4960, 4970, and 4980) are being amended to make updates necessary to meet the current needs of the State's foster care and adoption systems. The proposed regulations set standards for child placing agencies that will further the States interest in ensuring safe, stable, and appropriate foster family and adoptive home placement for children.

### DETERMINATION OF COSTS AND BENEFITS:

The Department of Social Services estimates there will be no additional costs incurred by the State and its political subdivisions due to the promulgation of the proposed regulations. The proposed regulations will benefit children by promoting the consistent application of quality standards to child placing agencies engaged in the business of providing care and maintenance of such children pursuant to foster family and adoptive placement.

### UNCERTAINTIES OF ESTIMATES:

There are no known uncertainties of estimates.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no effects on the environment. There will be a positive effect on public health because children who need foster family and adoptive placement will be placed in such homes by child placing agencies who are required to adhere to quality standards that promote safe, stable, and appropriate placements and that are enforceable by the Department of Social Services.

### DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

There will be no detrimental effect on the environment and public health if the regulations are not implemented.

### Statement of Rationale:

As the administrator of the State's foster care system, the Department of Social Services is responsible for establishing and promulgating rules and regulations for the licensure of agencies and institutions engaged in the business of receiving children for care and maintenance related to foster care and adoption. The regulations governing licensing standards for child placing agencies (South Carolina Code of Regulations 114-4910, 4920, 4930, 4940, 4950, 4960, 4970, and 4980) are being amended to make updates necessary to meet the current needs of the State's foster care and adoption systems. The proposed regulations set standards for child placing agencies that will further the States interest in ensuring safe, stable, and appropriate foster family and adoptive home placement for children.

### Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

Document No. 5313  
**DEPARTMENT OF SOCIAL SERVICES**  
CHAPTER 114  
Statutory Authority: 1976 Code Section 43-1-80

114-140. Foster Care.  
114-150. Adoptions.

**Preamble:**

The Department of Social Services is proposing to amend South Carolina Code of Regulations 114-140 and 114-150 which outline the fair hearings process for adverse decisions related to foster care and adoptions, respectively. The regulations are being reviewed and amended to clarify the appeal rights of foster parents. The proposed amendments are necessary promote consistency in the application of a fair hearings process for adverse decisions related foster care and adoption.

Section-by-Section Discussion:

114-140. Foster Care.

1. 114-140(A) through (2)(c) No change.
2. Add 114-140(A)(2)(d) through (h) Clarifies when a foster parent does not have the right to appeal.
3. 114-140(B)(1) Strikes 120 days and replace with 12 months.
4. 114-140(B)(1)(a) No change.
5. 114-140(B)(1)(b) Makes a conforming change; strikes existing text.
6. 114-140(B)(2) through (C)(6) No change.

114-150 Adoptions.

1. 114-150(A)(1) No change.
2. 114-150(A)(2) Updates a statutory cross reference.
3. 114-150(B) Updates a statutory cross reference.
4. 114-150(C)(1)(a) through (c) No change.
5. 114-150(C)(2) Clarifies limitations on adoption subsidy.
6. 114-150(D) No change.

The Notice of Drafting was published in the *State Register* on June 28, 2024.

**Notice of Public Hearing and Opportunity for Public Comment:**

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the South Carolina Code of Laws, such hearing will be conducted at the Administrative Law Court at Edgar A. Brown Building, 1205 Pendleton Street, Suite 224, Columbia, South Carolina 29201 on November 12, 2024, at 3:00 p.m. before the Honorable Deborah Brooks Durden. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Written comments may be directed to Melissa S. Lowe, Foster Care & Adoption Support Program Manager and State ICWA Manager, South Carolina Department of Social Services, 1535 Confederate Avenue, Post Office



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Box 1520, Columbia, South Carolina 29202, and by way of electronic mail to melissa.lowe@dss.sc.gov, no later than 5:00 p.m. on October 28, 2024.

### **Preliminary Fiscal Impact Statement:**

The Department of Social Services estimates there will be no additional cost incurred by the State and its political subdivisions due to the promulgation of these regulations.

### **Statement of Need and Reasonableness:**

The fair hearing process is an official state action required by Federal and State laws and regulations in accordance with the Fourteenth Amendment to the United States Constitution. Regulations 114-140 and 114-150 which deal with the fair hearing process specifically related to Foster Care and Adoption are being reviewed and amended to clarify the appeal rights of foster parents. The proposed amendments are necessary to give notice to foster parents and adoptive parents of their rights to appeal certain adverse actions and to promote the consistent application of rules related to adverse actions by the Department.

### **DESCRIPTION OF REGULATION:**

**Purpose:** The Department of Social Services is proposing to amend Regulations 114-140 and 114-150 which deal with the fair hearing process specifically related to Foster Care and Adoption appeals. The regulations are being reviewed and amended to clarify the appeal rights of foster parents. The proposed amendments are necessary to give notice to foster parents and adoptive parents of their rights to appeal certain adverse actions and to promote the consistent application of rules related to adverse actions by the Department.

**Legal Authority:** 1976 Code Section 43-1-80.

**Plan for Implementation:** The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. The Department of Social Services will notify the applicable providers of the revised regulation and will post the regulations on the Department's website.

### **DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:**

The Department of Social Services is proposing to amend Regulations 114-140 and 114-150 which deal with the fair hearing process specifically related to Foster Care and Adoption appeals. The regulations are being reviewed and amended to clarify the appeal rights of foster parents. The proposed amendments are necessary to give notice to foster parents and adoptive parents of their rights to appeal certain adverse actions and to promote the consistent application of rules related to adverse actions by the Department.

### **DETERMINATION OF COSTS AND BENEFITS:**

There are no anticipated additional costs associated with the promulgation of these proposed regulations. The proposed regulations benefit foster parents and adoptive parents by putting them on notice of their rights to appeal certain adverse actions and compelling the Department to consistently apply rules related to adverse actions

### **UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates.

### **EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

The proposed regulations will have no effect on the environment. The proposed regulations further public health interests because the regulations support the Department’s mission to promote safety, permanency, stability, and well-being of children who are in the State’s foster care system.

**DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:**

There will be no detrimental effect on the environment and public health if the regulation is not implemented.

**Statement of Rationale:**

There will be no detrimental effects on the environment and public health if the proposed amendments to Regulations 114-140 to 114-150 are not implemented in this State.

**Text:**

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

Document No. 5314  
**DEPARTMENT OF SOCIAL SERVICES**  
CHAPTER 114  
Statutory Authority: 1976 Code Section 63-13-180

114-500 through 114-509. Regulations for the Licensing of Child Care Centers.

**Preamble:**

The Department of Social Services is proposing to amend South Carolina Code of Regulations 114-500 to 114-509 to establish and maintain standards for licensed child care centers that are reasonably aligned with recommended standards of national organizations and which further the Department’s mission to establish and maintain standards that protect the health, safety, and well-being of children receiving care in licensed child care centers.

The Department of Social Services is responsible for establishing and promulgating rules and regulations for the proper operation of licensed child care centers and for the care and protection of children who receive care in licensed child care centers.

The Department of Social Services is proposing regulations that set forth the requirements for licensed child care centers. The proposed regulations are designed to promote the health, safety, and welfare of the children who are to be served by assuring safe and adequate physical surroundings and healthful food and by assuring supervision and care of the children by a sufficient number of capable, qualified personnel.

**Section-by-Section Discussion:**

1. 114-501 Amended to define key terms, clarify existing definitions, and renumber items.
2. 114-502(B) Amended to make a child care center license valid for 3 years and clarify the length of time a child care center may operate under a provisional license.
3. 114-502(C) Amended to clarify the Department’s expectations of the child care center director and staff during inspections and consultations and to clarify procedures for follow-up visits to verify correction of deficiencies.

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4. 114-502(D) Amended to establish standards for use of video surveillance in a child care center.
5. 114-502(E) Amended to clarify when a license may be denied, revoked, or not renewed.
6. 114-502(F) Amended to clarify who may report changes that may affect the status of a license to the Department and the types of changes that must be reported to the Department.
7. 114-503(A) Amended to clarify standards for the display of licenses in a child care center.
8. 114-503(D) Amended to clarify standards for incident reporting.
9. 114-503(E) Amended to clarify procedures for the reporting of child deaths.
10. 114-503(F) Amended to clarify standards for parent access and communication.
11. 114-503(G) Amended to clarify record keeping procedures.
12. 114-503(I) Amended to clarify expectations related to child care centers making laws, policies, and procedures known to staff, parents, etc.
13. 114-503(K) Amended to clarify standards for child abuse and criminal background checks, education and training requirements for teachers and caregivers.
14. 114-504(A) Amended to clarify standards for the supervision of children during awake and nap periods.
15. 114-504(C) Amended to add the word, “qualified.”
16. 114-504(D) Amended to establish staffing standards during activities that involve pools and other bodies of water.
17. 114-505(A) Amended to replace “Department of Health and Environmental Control” with the newly created “Department of Public Health.”
18. 114-505(B) Amended to clarify standards for sanitation.
19. 114-505(D) Amended to clarify standards for the storage of medications.
20. 114-505(F) Amended to clarify diaper changing procedures.
21. 114-505(G) Amended to clarify staff health expectations.
22. 114-505(H) Amended to clarify fire safety and emergency preparedness standards.
23. 114-505(I) Amended to clarify standards related to transporting children.
24. 114-506(A) Amended to establish expectations related to the posting of daily activities.
25. 114-506(B) Amended to clarify standards for disciplining children and communicating disciplinary actions to parents.
26. 114-507(A) Amended to establish minimum standards for physical indoor space for each child, ventilation, lighting, temperature of water, egress doors, power outages, electrical outlets, and toilet training.
27. 114-507(B) Amended to establish minimum standards for physical outdoor space for each child and play equipment.
28. 114-507(D) Amended to clarify standards for rest surfaces and rest equipment.
29. 114-507(E) Amended to clarify standards for the reporting and repair of mold and water damage; use, access, and maintenance of swimming pools, and responding to animal bites.
30. 114-508(A) Amended to clarify meal requirements and requirements for meeting special dietary needs.
31. 114-508(B) Amended to clarify food preparation requirements.
32. 114-508(D) Amended to clarify food storage requirements.
33. 114-508(E) Amended to change “Department of Health and Environmental Control” to “South Carolina Department of Agriculture.”
34. 114-509(A) Amended to clarify standards for the care of infants and toddlers.
35. 114-509(B) Amended to clarify standards related to the care of sick children.
36. 114-509(C) Amended to clarify nighttime care standards.

The Notice of Drafting was published in the *State Register* on April 26, 2024.

### **Notice of Public Hearing and Opportunity for Public Comment:**

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the South Carolina Code of Laws, such hearing will be conducted at the Administrative Law Court in the Edgar A. Brown Building, 1205 Pendleton Street, Suite 224, Columbia, South Carolina 29201 on November 15, 2024. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Written comments may be directed to Cynthia Lara, Director Child Care Licensing, South Carolina Department of Social Services, 1535 Confederate Avenue, Post Office Box 1520, Columbia, South Carolina 29202, and by way of electronic mail to [commentsonchildcareregulations@dss.sc.gov](mailto:commentsonchildcareregulations@dss.sc.gov), no later than 5:00 p.m. on October 28, 2024.

**Preliminary Fiscal Impact Statement:**

The Department of Social Services estimates there will be no additional cost incurred by the State and its political subdivisions because of the proposed promulgation of these regulations.

**Statement of Need and Reasonableness:**

These regulations are being updated to establish and maintain standards for licensed child care centers that are reasonably aligned with recommended standards of national organizations and which further the Department's mission to establish and maintain standards that protect the health, safety, and well-being of children receiving care in licensed child care centers.

**DESCRIPTION OF REGULATION:**

**Purpose:** The Agency is proposing to amend Regulations 114-500 through 114-509 to establish and maintain standards for licensed child care centers that are reasonably aligned with recommended standards of national organizations and which further the Department's mission to establish and maintain standards that protect the health, safety, and well-being of children receiving care in licensed child care centers.

**Legal Authority:** 1976 Code Section 63-13-180, as amended.

**Plan for Implementation:** The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. The Department of Social Services will notify the applicable providers of the revised regulations and will post the regulations on the Department's website.

**DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:**

The Department of Social Services is proposing to amend Regulations 114-500 through 114-509 to establish and maintain standards for licensed child care centers that are reasonably aligned with recommended standards of national organizations and which further the Department's mission to establish and maintain standards that protect the health, safety, and well-being of children receiving care in licensed child care centers.

**DETERMINATION OF COSTS AND BENEFITS:**

The costs associated with the regulation are primarily related to licensing and administrative functions. The regulation will benefit children who are to be served in licensed child care centers by assuring safe and adequate physical surroundings and healthful food and by assuring supervision and care of children by capable, qualified personnel of sufficient number.

**UNCERTAINTIES OF ESTIMATES:**

There are no known uncertainties of estimates.

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

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The regulations will have no effect on the environment. The regulations further public health interests because the regulations support the Department's mission to promote the safety and well-being of children receiving care in licensed child care centers.

### DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

There will be no detrimental effects on the environment and public health if the proposed amendments to Regulations 114-500 through 114-509 are not implemented in this State

### Statement of Rationale:

The Department of Social Services is proposing to amend Regulations 114-500 through 114-509 to establish and maintain standards for licensed child care centers that are reasonably aligned with recommended standards of national organizations and which further the Department's mission to establish and maintain standards that protect the health, safety, and well-being of children receiving care in licensed child care centers.

### Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

Document No. 5315  
**DEPARTMENT OF SOCIAL SERVICES**  
CHAPTER 114

Statutory Authority: 1976 Code Sections 43-1-80 and 63-9-1700 through 1810

114-4380. Supplemental Benefits for Adoption and Medical Assistance.

### Preamble:

The State of South Carolina aims to support adoption laws by making possible through public supplemental benefits the most appropriate adoption of each child certified by the Department of Social Services as requiring a supplemental benefit to assure adoption. The Department of Social Services is charged with promulgating regulations to carry out the State's purpose; and therefore, is proposing to amend Regulation 114-4380 to promote compliance with statutory authority and to further the Department's mission to promote safety, permanency, stability, and well-being of children who are in the State's foster care system.

### Section-by-Section Discussion:

Regulation 114-4380.

1. Subsection (A), Amended to clarify the meaning of key terms found in the regulations.
2. Subsection (B), Amended to clarify eligibility requirements.
3. Subsection (D), Amended to explain the process for prior approval of certain expenditures and to notify adoptive parents that the State Medicaid agency may require certain documentation to continue coverage of a child adopted in another State.
4. Subsection (E), Amended to clarify when Supplemental Benefits may terminate.

The Notice of Drafting was published in the *State Register* on June 28, 2024.

### Notice of Public Hearing and Opportunity for Public Comment:

*South Carolina State Register Vol. 48, Issue 9*  
September 27, 2024

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be conducted at the Administrative Law Court before the Honorable Deborah Brooks Durden at the Edgar A. Brown Building, 1205 Pendleton Street, Suite 224, Columbia South Carolina 29201 on November 12, 2024, at 10:00 a.m. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Written Comments may be directed to Melissa S. Lowe, Foster Care & Adoption Support Program Manager and State ICWA Manager, South Carolina Department of Social Services, 1535 Confederate Avenue, Post Office Box 1520, Columbia, South Carolina 29202 and by way of electronic mail to [commentsonchildcareregulations@dss.sc.gov](mailto:commentsonchildcareregulations@dss.sc.gov), no later than 5:00 p.m. on October 28, 2024.

**Preliminary Fiscal Impact Statement:**

The Department of Social Services estimates there will be no additional costs incurred by the State and its political subdivisions due to the promulgation of the proposed regulations.

**Statement of Need and Reasonableness:**

The State of South Carolina aims to support adoption laws by making possible through public supplemental benefits the most appropriate adoption of each child certified by the Department of Social Services as requiring supplemental benefits to assure adoption. The Department of Social Services is charged with promulgating regulations to carry out the State’s purpose; and therefore, is proposing to amend Regulation 114-4380 to promote compliance with statutory authority and to further the Department’s mission to promote safety, permanency, stability, and well-being of children who are in the State’s foster care system.

DESCRIPTION OF REGULATION:

The Department of Social Services is charged with promulgating regulations to carry out the State’s goal of making possible through public supplemental benefits the most appropriate adoption of each child certified by the Department of Social Services as requiring supplemental benefits to assure adoption; and therefore, the Department is proposing to amend Regulation 114-4380 to promote compliance with statutory authority and to further the Department’s mission to promote safety, permanency, stability, and well-being of children who are in the State’s foster care system.

Purpose: The Department of Social Services is proposing to amend Regulation 114-4380 to further the State’s goals related to adoption of children who require supplemental benefits, to promote compliance with statutory authority, and to further the Department’s mission to promote safety, permanency, stability, and well-being of children who are in the State’s foster care system.

Legal Authority: 1976 Code Sections 43-1-80 and 63-9-1700 through 1810.

Plan for Implementation: The revised regulation will take effect upon approval by the General Assembly and upon publication in the State Register. The Department of Social Services will notify the applicable providers of the revised regulation and will post the regulations on the Department’s website.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The Department of Social Services is proposing to amend Regulation 114-4380 to further the State’s goals related to adoption of children who require supplemental benefits, to promote compliance with statutory authority, and to further the Department’s mission to promote safety, permanency, stability, and well-being of children who are in the State’s foster care system. Regulation 114-4380 benefits the State by making public

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benefits available to adoptive parents of children who have needs that might otherwise be an impediment to adoption.

### DETERMINATION OF COSTS AND BENEFITS:

The Department of Social Services estimates there will be no additional costs incurred by the State and its political subdivisions due to the promulgation of the proposed regulations. Regulation 114-4380 benefits the State by making public benefits available to adoptive parents of children who have needs that might otherwise be an impediment to adoption.

### UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The regulation will have no effect on the environment. The regulation promotes public health interests by making supplemental benefits available to adoptive parents for the care of children who have needs that might otherwise be an impediment to adoption.

### DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

The regulation will have no detrimental effect on the environment. Not implementing the regulation may have a detrimental effect on public health interests because adoptive parents of children who have needs that are an impediment to adoption may be without much needed financial and medical assistance for the care of these children.

### Statement of Rationale:

The State of South Carolina aims to support adoption laws by making possible through public supplemental benefits the most appropriate adoption of each child certified by the Department of Social Services as requiring a supplemental benefit to assure adoption. The Department of Social Services is charged with promulgating regulations to carry out the State's purpose; and therefore, is proposing to amend Regulation 114-4380 to promote compliance with statutory authority and to further the Department's mission to promote safety, permanency, stability, and well-being of children who are in the State's foster care system.

### Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

Filed: August 12, 2024 8:50am

Document No. 5278  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**STATE BOARD OF COSMETOLOGY**  
 CHAPTER 35

Statutory Authority: 1976 Code Sections 1-23-130, 40-13-60, and 40-13-230(B)

35-3. Minimum Curriculum for a School of Cosmetology, Nail Technology, or Esthetics.

**Emergency Situation:**

Estheticians are individuals who practice make-up or skin care for the sole purpose of beautifying the skin. To practice esthetics in South Carolina, an esthetician must hold a license from the South Carolina Board of Cosmetology, which is issued following: completion of at least 450 hours in classes in skin care in a reliable school approved by the board, or comparable training approved by the board; and passage of an exam as prescribed by the board. Traditionally, many of the schools offering skin care programs have been eligible for Federal Student Aid funding for their students under the *Higher Education Act Title IV* (HEA) To be eligible for funding, an educational program must lead to a degree at a nonprofit or public institution or it must prepare students for “gainful employment” (GE) in a recognized occupation which here, is esthetics.

For the last 30 years, the U.S. Department of Education (Department) has enforced 34 C.F.R. § 668.14(b)(26), a Federal regulation that allowed institutions receiving Federal Student Aid (FSA) funds on behalf of students enrolled in GE programs to receive FSA funds for the minimum number of hours required by the state for licensure *plus 50 percent*. This has been referred to as the “150% rule”. For estheticians in South Carolina, then, FSA funds were available for the required 450 hours for licensure and for an additional 150 hours of training, totaling a 600-hour curriculum which many schools in the state offer.

On October 31, 2023, the Department published a final rule abolishing the 150% rule and replacing it with a requirement that institutions certify that their GE programs are not longer than 100 percent of the length required for licensure in a recognized occupation. An institution’s access to FSA funds is contingent upon compliance with this new rule, the “100% rule” (also known as the Bare Minimum Rule). The rule took effect on July 1, 2024. With this change, FSA funds would only be available for the 450 hours of classes required for licensure and not for the existing 600-hour programs.

Between the date the final rule was issued and its effective date, the Department and FSA indicated they recognized a hardship caused by this rule change. On April 9, 2024, FSA published on its website the Department’s “clarifications on how its enforcement discretion specifically relates to two provisions in the Certification Procedures regulations published on October 31, 2023, and scheduled to take effect on July 1, 2024” of which one was the maximum program length for certain GE programs. The Department acknowledged that institutions and state agencies both have expressed concerns with their ability to comply with the rule change and responded by stating the Department “understands that there may be circumstances outside of an institution’s control that prevent compliance with these new requirements by July 1, 2024” but the Department believes that most of the concerns and challenges will have been resolved or sufficiently mitigated by January 1, 2025. “The Department has enforcement discretion with respect to an institution’s compliance with certain Title IV, HEA requirements. Given the concerns received from institutions and States, particularly for the period between July 1, 2024 and January 1, 2025, we will consider exercising this discretion before taking action regarding the provisions in 34 CFR 668.13(b)(26) . . . .” The Department continued by listing defenses an institution could raise to an enforcement action, including an inability to obtain approval from the State or accrediting agencies for program changes, the inability to obtain approvals for academic program changes, the inability to obtain sufficient clarity from State licensing and certification entities about licensure and certifications requirements, or the inability to access and use the Department’s systems.



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The Department encouraged institutions to “document, prior to July 1, 2024, the circumstances that prevent their compliance with any requirement by the regulations’ effective date.” The Department said it would review such documentation prior to taking any enforcement action related to the provisions.

In response to notice of the Federal rule change, several bills addressing esthetics licensure requirements were filed in the South Carolina General Assembly during the 2024 legislative session. At least one of those bills, S.857, would have increased the minimum number of hours required for licensure as an esthetician from 450 to 600, thereby resolving this problem in advance of the July 1, 2024 deadline. The bill passed the Senate but remained in the House Medical, Military, Public and Municipal Affairs (3M) Committee at the time of adjournment of session on May 9, 2024.

By way of a letter dated May 2, 2024, Chair of the House 3M Committee asked the Board of Cosmetology to utilize the emergency regulation procedures, as outlined in S.C. Code Section 1-23-130, to provide a temporary solution to protect students’ access to FSA funds until such time as the General Assembly convenes in January 2025 and can consider the matter. Filing this regulation also served to document the circumstances preventing compliance, in accordance with the Department’s directive.

### Text:

#### 35-3. Minimum Curriculum for a School of Cosmetology, Nail Technology, or Esthetics.

(A)	Basic course for a School of Cosmetology	1500 Hours Curriculum
	Subjects	Hours
	(1) Science of Cosmetology:	
	(a) Sanitation and Disinfection	45
	(b) Personal Hygiene and Grooming	30
	(c) Professionalism-Professional Ethics	35
	(d) Public Relations, Salesmanship and Psychology	50
	(e) Anatomy	45
	(f) Dermatology	25
	(g) Trichology	25
	(h) Nail Structure	15
	(i) Chemistry	100
	(j) Safety Precautions (Public Safety)	30
	(2) Practice of Cosmetology:	
	(a) Shampoos and Rinses (Safety)	45
	(b) Scalp and Hair Care-Treatments (Safety)	30
	(c) Hair Shaping (Safety)	150
	(d) Hair Styling (Safety)	325
	(i) Thermal Pressing	
	(ii) Thermal Curling	
	(iii) Wiggery	
	(iv) Roller Placement	
	(v) Molding	
	(vi) Pin Curling	
	(e) Nail Technology (Safety)	25
	(f) Chemical (Cold) Waving, Chemical Relaxing or Straightening (Safety)	225
	(g) Hair Tinting (Coloring) and Lightening (Bleaching) (Safety)	225
	(h) Facial-Skin Care, Make-up, and Hair Removal (Safety)	40

	(3)	State Law: Rules, Regulations, Code	15
	(4)	Unassigned: Specific Needs	20
Total			1500
(B)	Basic course for a School of Nail Technology		300 Hours Curriculum
		Subjects	Hours
	(1)	Sanitation and Safety Measures	75
	(a)	Bacteriology	
		(i) Classifications	
	(b)	Sanitation/Disinfection	
		(i) Chemical Agents	
		(ii) Sanitizing methods and Procedures	
	(2)	Anatomy and Physiology (Arms, Hands, Feet)	30
	(a)	Nail Shapes, Structures, Growth	
		(i) Nail Irregularities	
		(ii) Nail Diseases	
	(b)	Bones, Muscles, Nerves	
		(i) Bones of arm, hand	
		(ii) Muscles of arm, hand	
		(iii) Nerves of arm, hand	
	(c)	Skin	
		(i) Histology	
		(ii) Functions	
	(d)	Blood Circulation	
		(i) Blood Vessels	
		(ii) Blood supply of the arm, hand foot	
	(3)	Nail Technology (hands and feet)	105
	(a)	Preparation	
	(b)	Equipment and Implements	
	(c)	Supplies	
	(d)	Procedures	
		(i) Basic Nail Technology	
		(ii) Nail analysis	
		(iii) Hand and arm massage	
	(e)	Pedicure	
	(f)	Polish-Application	
	(g)	Specific Needs	
	(4)	Artificial Nails	50
	(a)	Sculpturing (liquid and powder brush ons)	
	(b)	Artificial nail tips	
	(c)	Nail wraps and repairs	
	(d)	Maintenance	
	(5)	Power Equipment	25
	(6)	State Law	15
Total			300
(C)	Basic course for a School of Esthetics		450600 Hours Curriculum
		Subjects	Hours

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	(1)	Professional Practices	50
	(a)	Bacteriology and Sanitation	
	(i)	Personal hygiene	
	(ii)	Public health	
	(iii)	Methods	
	(iv)	Procedures	
	(b)	Business Practices	
	(i)	Management practices	
	(ii)	Salon development	
	(iii)	Insurance	
	(iv)	Client records	
	(v)	Salesmanship	
	(2)	Sciences	<del>120</del> 130
	(a)	Histology of Skin	
	(i)	Cell	
	(ii)	Tissue	
	(b)	Dermatology	
	(i)	Structure of the skin and glands	
	(ii)	Functions of the skin and glands	
	(iii)	Conditions and disorders of the skin	
	(iv)	Characteristics of the skin	
		(A) Elasticity	
		(B) Color	
		(C) Skin types	
	(v)	Nutrition	
		(A) Nourishment of skin	
		(B) Healthful diet	
	(c)	Structure and Functions of Human Systems	
	(i)	Skeletal	
	(ii)	Muscular	
	(iii)	Nervous	
	(iv)	Circulatory	
	(v)	Cosmetic Chemistry	
	(3)	Facial Treatments	<del>125</del> 175
	(a)	Facial Massage	
	(i)	Benefits	
	(ii)	Analysis	
	(iii)	Preparation	
	(iv)	Types of Massage	
	(v)	Manipulations	
	(vi)	Safety measures	
	(b)	Electrical current-facial treatments	
	(i)	Types of current	
	(ii)	Purpose and effects	
	(iii)	Procedures	
	(iv)	Safety measures	
	(v)	Equipment	
	(c)	Other kinds of Facial treatments	
	(i)	Purpose and effects	
	(ii)	Types and treatments	

		(iii)	Preparation	
		(iv)	Procedures	
		(v)	Safety measures	
	(4)	Hair Removal		5060
		(a)	Depilatories	
		(b)	Tweezing	
		(c)	Waxing	
		(d)	Threading	
		(e)	Unassigned: Specific Needs	
	(5)	Makeup, Eyelash and Eyebrow		50100
		(a)	Purpose and effects	
		(b)	Supplies and implements	
		(c)	Preparation	
		(d)	Procedures	
		(i)	<u>Makeup Procedures</u>	
		(ii)	<u>Eyelash Extensions</u>	
		(iii)	<u>Eyelash Perming</u>	
		(iv)	<u>Eyebrow Lamination</u>	
		(e)	Safety measures	
	(6)	Body Wraps		40
		(a)	Purpose and effects	
		(b)	Types or treatments	
		(c)	Supplies and instruments	
		(d)	Preparation	
		(e)	Procedure	
		(f)	Safety measures	
	(7)	State Law, Rules, Regulations and Codes		15
	(8)	<u>Unassigned: Specific Needs</u>		30
	Total			<del>450</del> 600
	(D) Public School Secondary Education Curriculum			1540 curriculum hours
	(1)	Science of Cosmetology		
		(a)	Sanitation & Sterilization	45
		(b)	Personal Hygiene & Grooming	30
		(c)	Professionalism/Professional Ethics	25
		(d)	Salesmanship/PR/Psych.	35
		(e)	Anatomy	25
		(f)	Dermatology	25
		(g)	Trichology	25
		(h)	Nail Structure	10
		(i)	Chemistry	75
		(j)	Safety Precautions (Public Safety)	15
	(2)	Practice of Cosmetology		
		(a)	Shampoo & Rinse	20
		(b)	Scalp & Hair Treatment (Safety)	30
		(c)	Hair Shaping (Safety)	100
		(d)	Hair Styling (Safety)	225
		(i)	Thermal Pressing	
		(ii)	Thermal Curling	

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	(iii)	Wiggery	
	(iv)	Roller Placement	
	(v)	Molding	
	(vi)	Pin Curl	
	(e)	Nail Technology (Manicure & Pedicure)	25
	(f)	Chemical (Cold) Waving, Chemical Relaxing or Straightening (Safety)	130
	(g)	Hair Tinting (Coloring) and Lightening (Bleaching)	100
	(h)	Facial Skin Care, Makeup, and Hair Removal (Safety)	40
	(i)	State Law Rules, Regulations and Codes	15
	(3)	Unassigned	5
	(4)	Academic Hours	500
	(a)	English Language Arts	120
	(b)	Math	120
	(c)	Science	120
	(d)	Economics or Government	60
	(e)	Technology	120

### Statement of Need and Reasonableness:

#### DESCRIPTION OF REGULATION:

Purpose: The purpose of the regulation is to preserve access to FSA funds for esthetician students until such time as the South Carolina General Assembly can reconvene in January 2025 to address the minimum number of hours required for licensure as an esthetician in the state.

Legal Authority: 1976 Code Sections 1-23-130, 40-13-60, and 40-13-230(B).

Plan for Implementation: The regulation will be available at the South Carolina Department of Labor, Licensing and Regulation and on its website.

#### DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The emergency regulation is necessary to comply with the Federal requirement that institutions certify that their GE programs are not longer than 100 percent of the length required for licensure in a recognized occupation.

#### DETERMINATION OF COSTS AND BENEFITS:

The emergency regulation will present no costs to the State of South Carolina.

#### UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates related to the emergency regulation.

#### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

This regulation will have no negative effect on the environment or public health.

#### DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

This regulation will have no detrimental effect on the environment or public health if the regulation is not implemented.

**Filed: August 12, 2024 2:36pm**

Document No. 5294  
**DEPARTMENT OF NATURAL RESOURCES**  
 CHAPTER 123  
 Statutory Authority: 1976 Code Section 50-11-1910

123-56. Deer Processors and Donated Deer Processing Fee Recovery.

**Emergency Situation:**

SC Code Section 50-11-1910(B) was amended effective May 2024 authorizing the South Carolina Department of Natural Resources to promulgate regulations to permit deer processors to process legally taken female (doe) deer donated by a hunter or deer depredation permittee and recover the fee of processing the deer from a person other than the individual who donated the deer. Given the timing of passage of this amendment and that of the regulations process the department is filing this emergency regulation to effectuate the provisions of this section for the 2024 deer season which begins on August 15 and ends on January 1.

**Text:**

123-56. Deer Processors and Donated Deer Processing Fee Recovery.

1. Recovering the fee for processing a deer without a permit constitutes sale of venison and is unlawful. Violation of permit conditions may result in permit revocation and penalties under the enabling code section.
2. To participate in the processing fee recovery program, a deer processor must submit an application provided by the department and be issued a permit annually. The permit is only valid for recovering the processing fee from female (doe) deer donated by a hunter or deer depredation permittee.
3. Permitted processors are not obligated to accept donated deer and may choose the times when donated deer are accepted.
4. Permitted processors must record the date the deer was donated, by whom the deer was donated, and the SC Game Check harvest report confirmation number or Deer Depredation Program tag number of the donated deer on forms provided by the department.
5. Permitted processors must furnish to the department by January 31 annually copies of all deer donation records for which processing fees were recovered.
6. Permitted processors may not recover fees more than those normally charged for deer processing services.
7. Processors must post or make available a list of fees for services that may include but are not limited to skinning/dressing, cutting/wrapping, upcharges for specialty cuts and specialty items like sausage, jerky, snack sticks, etc.
8. Processing fees may be recovered for whole processed deer or for portions of a processed deer provided that fees for portions or specialty products are prorated so they do not exceed what is normally charged for the item as part of processing a whole deer.
9. Reference to the program should describe it as “recovering” or “being reimbursed for” the processing fee in the same manner that would occur if the individual who harvested the deer paid the processing fee. Reference to offering deer meat for “sale” is unlawful.

**Fiscal Impact Statement:**

## 148 EMERGENCY REGULATIONS

The addition of Regulation 123-56 will result in limited fiscal impact and will provide for the provisions of SC Code 50-11-1910(B) to be in effect for the 2024 deer season.

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Document No. 5299  
**DEPARTMENT OF NATURAL RESOURCES**  
CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-220, 50-11-10, 50-11-2200, and 50-11-2210

### **Emergency Situation:**

These emergency regulations establish seasons, limits and special restrictions for dove hunting on Dove Management Areas. Because the dove season begins September 2, it is necessary to file these regulations as emergency.

### **Text:**

#### **WILDLIFE MANAGEMENT AREA PUBLIC DOVE FIELDS 2024-2025**

Dove Management Area Regulations: The following fields are open only during the dates and times indicated below. A Wildlife Management Area permit and a Migratory Bird Permit are required for dove hunting on all fields. Fields denoted by an asterisk (\*) require hunters to sign in and sign out on ALL hunts. No species other than mourning doves, white-winged doves, pigeons and Eurasian collared doves may be hunted during scheduled dove hunts.

#### **Statewide Season Dates:**

September 2 - October 5, November 16 - November 30, December 22, 2024 - January 31, 2025.

Bag Limit: Mourning doves and white-winged doves: 15 per day, singly or in aggregate. No limit on Eurasian collared doves or pigeons.

The following special regulations apply to all Wildlife Management Area Public Dove Fields: Hunters are limited to 50 shells per hunt. No entry onto fields before 12:00 noon. No shooting after 6:00 p.m. during the first segment of the season (September 2 – October 5).

#### **ABBEVILLE**

U.S. Forest Service – Power of Partnerships Field – Sept. 7 Wheelin’ Sportsmen’s Hunt. 1<sup>st</sup> season – Saturdays Only beginning Sept. 14. 2<sup>nd</sup> and 3<sup>rd</sup> seasons open Mon. – Sat.

#### **AIKEN**

\*US Dept of Energy - Crackerneck WMA. 1<sup>st</sup> season – Sept. 7, 14, 21.

#### **ANDERSON**

Clemson University - Fant’s Grove WMA. 1<sup>st</sup> season - Saturdays Only Beginning Sept. 7. Field Closed Oct. 5. Open 2<sup>nd</sup> & 3<sup>rd</sup> seasons – Saturdays Only.

#### **BERKELEY**

\*U.S. Army Corps of Engineers - Canal WMA. Sept. 7, 28; Oct. 5; Nov. 16; Jan. 18. Sept. 14 is Wounded Warrior Hunt Only -Invitation Only.

#### **CHARLESTON**

\*DNR Botany Bay Plantation WMA. Sept. 7, 14, Oct. 5, Nov. 16; Jan. 11, 25 All hunts are Adult/Youth Only.

**CHEROKEE**

Duke Energy – London Creek WMA. Saturdays only beginning Sept. 7.

**CHESTER**

U.S. Forest Service - Worthy Bottoms. 1<sup>st</sup> season - Saturdays Only Beginning Sept. 7. 2<sup>nd</sup> & 3<sup>rd</sup> seasons - Open Mon. –Sat.

DNR Landsford Canal Forest Legacy Area. 1<sup>st</sup> season - Saturdays Only Beginning Sept. 7. 2<sup>nd</sup> & 3<sup>rd</sup> seasons - Open Mon. –Sat.

**CHESTERFIELD**

SC Forestry Commission – Sand Hills State Forest - Wilkes Chapel Field. 1<sup>st</sup> season –Saturdays Only Beginning Sept. 7. 2<sup>nd</sup> & 3<sup>rd</sup> seasons - Open Mon. – Sat.

SC Forestry Commission – Sand Hills State Forest - Davis Field. 1<sup>st</sup> season – Opening Day Sept. 7, then Wednesdays Only beginning Sept. 18. 2<sup>nd</sup> & 3<sup>rd</sup> seasons – Open Mon. – Sat.

**CLARENDON**

\*Santee Cooper - Santee Dam WMA. Sept. 7, 14, 28; Nov. 16; Dec. 28; Jan 11.

\*SC Forestry Commission - Oak Lea WMA. Sept. 7, 14, 21, 28; Dec. 28; Jan. 22.

**COLLETON**

\*DNR - Donnelley WMA. Sept. 7, 14; Oct. 2; Nov. 20; Jan. 8, 22.

**FLORENCE**

Santee Cooper – Pee Dee Station Site WMA. Sept. 7, 21; Oct. 5; Nov. 23; Dec. 28; Jan.11, 25. Dove Hunting Only.

**GEORGETOWN**

\*DNR Samworth WMA - Sept. 7, 21; Oct. 5; Nov. 23; Jan. 11, 25.

**GREENVILLE**

DNR Tall Pines WMA. Dove Hunting Only. 1<sup>st</sup> Season - Saturdays Only Beginning Sept. 7. 2<sup>nd</sup> and 3<sup>rd</sup> seasons – Saturdays Only.

**HAMPTON**

\*DNR – Palachucola WMA. Sept. 7, 21; Oct. 5; Nov. 23; Dec. 28; Jan. 11, 25.

\*DNR - Webb Wildlife Center. Sept. 7, 21; Oct. 5; Nov. 23; Dec. 28; Jan. 11, 25.

**JASPER**

\*DNR – Coosawhatchie WMA. Sept. 7, 21; Oct. 5; Nov. 23; Dec. 28; Jan. 11, 25.

**LAURENS**

DNR Cliff Pitts WMA - 1<sup>st</sup> season – Saturdays Only Beginning Sept. 7. 2<sup>nd</sup> and 3<sup>rd</sup> seasons open Mon. – Sat.

DNR Gray Court Field. 1<sup>st</sup> season - Saturdays Only Beginning Sept. 7. 2<sup>nd</sup> & 3<sup>rd</sup> seasons open Mon. - Sat.

**LEXINGTON**

Hallman Field. 1<sup>st</sup> season - Saturdays Only Beginning Sept. 7. 2<sup>nd</sup> & 3<sup>rd</sup> seasons - Saturdays Only. Dove Hunting Only.

**MARLBORO**

DNR - Lake Wallace WMA. Sept. 7, 21; Oct. 5; Nov. 23; Dec. 28; Jan. 11, 25. Dove Hunting Only.



## **150 EMERGENCY REGULATIONS**

### **MCCORMICK**

\*U.S. Army Corps of Engineers - Bordeaux Field. Sept. 7 & 18; Oct. 2; Nov. 27; Jan. 15 & 22; Dove Hunting Only. Hunters must sign-in & out at 1009 McIntosh Rd.

U.S. Army Corps of Engineers – Parksville Field. 1<sup>st</sup> season – Saturdays Only Beginning Sept. 7. 2<sup>nd</sup> & 3<sup>rd</sup> seasons – Open Mon. - Sat.

US Army Corp of Engineers - Plum Branch Fields. 1<sup>st</sup> season – Saturdays Only Beginning Sept. 7. 2<sup>nd</sup> & 3<sup>rd</sup> seasons – Open Mon. - Sat.

### **NEWBERRY**

SCDOT McCullough Field. Saturdays Beginning Sept. 7. Dove Hunting Only.

DNR Belfast WMA. Sept. 7, 14, 21, 28; Nov. 30. 3<sup>rd</sup> season - Open Mon. - Sat.

### **OCONEE**

U.S. Forest Service – Long Creek Tract. In order to hunt, adults must have 1 or 2 youth age 17 or younger. 1<sup>st</sup> season – Saturdays Only Beginning Sept. 7. 2<sup>nd</sup> season – Open November 16, 23, 30 Only. 3<sup>rd</sup> season – Closed.

U.S. Forest Service - Ross Mtn. Field. Open 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> seasons. Saturdays Only Beginning Sept. 7.

### **ORANGEBURG**

\*Santee Cooper - Santee Cooper WMA. Sept. 7 is Adult/Youth Only. Sept. 14, 21; Nov. 16; Jan. 18.

### **PICKENS**

DNR Property - Rifle Range. Open 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> seasons. Saturdays Only Beginning Sept. 7. Dove hunting only.

Clemson University - Gravelly WMA - Causey Tract. Open 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> seasons. Saturdays Only Beginning Sept. 7. Dove hunting only.

### **RICHLAND**

Love WMA – Sept. 7, 14, 21, 28; Oct. 5.

### **SPARTANBURG**

Santee Cooper. 1<sup>st</sup> season – Saturdays Only Beginning Sept. 7. 2<sup>nd</sup> & 3<sup>rd</sup> seasons – Open Mon. – Sat.

### **SUMTER**

S.C. Forestry Commission - Manchester State Forest

\*Bland Field 1. Sept. 7 is Adult/Youth Hunt Only. 1<sup>st</sup> season - Saturdays Only Beginning Sept. 14. 2<sup>nd</sup> & 3<sup>rd</sup> seasons open Mon. – Sat. (Designated fields and the general forest).

\*Tuomey Fields Field A –1<sup>st</sup> season – Saturdays Only Beginning Sept. 7. 2<sup>nd</sup> & 3<sup>rd</sup> seasons open Mon. – Sat. (Designated fields and the general forest).

### **UNION**

DNR Thurmond Tract. 1<sup>st</sup> season – Saturdays Only Beginning Sept. 7. 2<sup>nd</sup> & 3<sup>rd</sup> seasons open Mon. – Sat.

U.S. Forest Service - Sedalia. Sept. 7 is Adult/Youth Only. 1<sup>st</sup> season – Saturdays Only Beginning Sept. 14. 2<sup>nd</sup> & 3<sup>rd</sup> seasons - Open Mon. - Sat.

U.S. Forest Service - Herbert Field. 1<sup>st</sup> season - Saturdays Only Beginning Sept. 7. 2<sup>nd</sup> & 3<sup>rd</sup> seasons - Open Mon. - Sat.

**YORK**

DNR - Draper Tract. 1<sup>st</sup> season – Sept. 7, 21; Oct. 5; Nov. 23; Dec. 28; Jan. 11, 25. Dove Hunting Only.

York County – Worth Mountain WMA. Sept. 7, 21; Oct. 5; Nov. 23; Dec. 28; Jan. 11, 25. Dove Hunting Only.

**SPECIAL YOUTH DOVE HUNTS:**

Eligibility for these hunts requires adults 21 years or older to bring 1 or 2 youths 15 years of age and younger. Youths 16 & 17 years of age may participate in the hunt with or without an accompanying adult. The following regulations also apply: (1) Adult must remain in the field and closely supervise participating youth at all times. (2) In parties of one adult and 2 youths, only one youth hunter may be handling a loaded firearm at any given time. (3) Adults are allowed to shoot. (4) Bag limit is 15 birds per youth participant. Birds harvested by individual hunters must be kept separate, and in no instance may an individual hunter harvest more than 15 birds.

**CHARLESTON COUNTY YOUTH HUNT**

Botany Bay Plantation WMA - September 7, 14; October 5; November 16; January 11, 25.

**OCONEE COUNTY ADULT/YOUTH HUNT**

1<sup>st</sup> season – Saturdays only beginning Sept. 7. 2<sup>nd</sup> season – Open November 16, 23, 30 Only. 3<sup>rd</sup> season – Closed.

**ORANGEBURG COUNTY YOUTH HUNT**

Santee Cooper - Santee Cooper WMA. September 7.

**SUMTER COUNTY YOUTH HUNT**

Manchester State Forest near Wedgefield Bland Tract - Field 1 near Wedgefield - September 7.

**UNION COUNTY YOUTH HUNT**

Sedalia Field (U.S. Forest Service) - September 7.

**YORK COUNTY YOUTH HUNT**

SCDNR - Draper WMA - September 7.

**Statement of Need and Reasonableness:**

Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on new WMAs as well as expanding use opportunities on existing WMAs. Since the availability of specific fields changes each year and season dates change as allowed by Federal Regulation it is necessary to file Dove Field regulations annually. Because these hunts begin on September 7, it is necessary to file these regulations as emergency so they take effect immediately.

**Fiscal Impact Statement:**

This amendment of Regulation 123-40 will result in increased public hunting opportunities which should generate additional State revenue through license sales. In addition, local economies should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.