

INTRODUCTION

The ABC Board Personnel Policies and Procedures Manual (hereinafter "Manual") includes general rules of conduct, safety regulations, and disciplinary rules, *but is not all-inclusive*. Nothing contained in this Manual or any verbal statement should be construed as creating any type of employment contract, either expressed or implied.

The information contained in this Manual is subject to change at any time by order of the ABC Board Administrator (hereinafter "Administrator"), ABC Board members resolutions, Acts of the State Legislature, changes in the Rules of the State Personnel Board or Personnel Policies and Procedures, or due to business needs of the ABC Board (hereinafter "Agency"). Employees of the Agency are subject to such policies as they now or hereafter may exist. While the Agency will normally attempt to provide employees with advance notice of any change, the Agency reserves the right to alter these policies at any time without advance notice. Employees who are affected will be notified as soon as practicable.

In addition to the changes outlined above, the policies of this Agency may change or be modified because of legal decisions made by various courts and/or opinions issued under the authority of the State Attorney General. To the extent a legal opinion or decision of a court having competent jurisdiction changes the policies set out herein, all remaining policies shall be severed from the changed or modified policy and thereafter given continuing effect. A modified or changed policy because of a court decision shall be considered modified to meet the requirements of the court decision only and thereafter considered binding to that effect. All employees are expected to be familiar with such changes whether the Agency has provided specific notice of such change to its employees.

In any instance, except where required by statute or rule of the State Personnel Board, the Administrator may delegate responsibilities for administration of the policies within this manual to the ABC Board Assistant Administrator, a Division Head, Legal Counsel, or other similarly situated and responsible supervisor(s) or manager(s) within the Agency.

All current and new employees are entitled access to this Manual. Employees are responsible for reading, understanding, and complying with all policies and procedures included herein.

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CHAPTER ABC-4-1

THE MERIT SYSTEM

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ABC-4-1-.02 [EMPLOYEE RIGHTS AND RESONSIBILITIES](#)

ABC-4-1-.01 PURPOSE

The law that established the merit system was passed in 1939 and now appears in the Code of Alabama (1975) at §36-26-1, et seq. The purpose of the merit system as stated in the law is as follows:

“To assure all citizens of demonstrated capacity, ability, and training an equal opportunity to compete for service with the State of Alabama; to establish conditions in the State service which will attract officers and employees of the governmental departments and agencies by the improvement of methods of personnel administration.”

ABC-4-1-.02 EMPLOYEE RIGHTS AND RESPONSIBILITIES

(1) *What does being a merit system employee mean?* The merit system offers protection against job discrimination and unfair termination. It provides protection for employees who have earned it through the merits of their job performance. For example, an employee is protected against demands unrelated to the performance of his/her job, such as:

- An employee cannot be forced to pay any political contribution or assessment;
- An employee cannot be forced to vote “as you are told”;
- An employee cannot be fired for failing to “vote right” in any election; and
- An employee cannot be replaced by someone who happens to have more “clout.”

(2) Employment *CAN* be terminated for cause. Employees are required to earn the protection of the system by following work rules, fulfilling job responsibilities, and demonstrating acceptable levels of conduct. Some examples of rule violations for which employees can be terminated from State service include, but are not limited to:

- Neglect of job responsibilities;
- Violations of work rules or regulations implemented by the State Personnel Board and/or the Agency;
- Drawing compensation for any day or partial day when the employee actually did not perform a full or partial day’s work, or were on unauthorized leave;
- Inappropriate use of State equipment;
- Claiming reimbursement for money not actually spent in connection with state business;
- Showing partiality, unfairness, or discourtesy in dealing with the general public and/or co-workers;

- Displaying an uncooperative or unpleasant behavior towards fellow employees and/or supervisor;
- Disgraceful conduct, on or off the job; or
- Obtaining employment under fraudulent conditions, misstatements, or an exaggeration of facts.

(3) Further details on terms and conditions of employment are specified throughout this Manual. Adherence to such policies is imperative and serves as a prerequisite for continued employment with the Agency.

CHAPTER ABC-4-2

EQUAL EMPLOYMENT OPPORTUNITY

- ABC-4-2-.01 [EQUAL OPPORTUNITY STATEMENT/COMPLAINT POLICY](#)
- ABC-4-2-.02 [PROHIBITION OF HARASSMENT AND DISCRIMINATION](#)
- ABC-4-2-.03 [COMPLAINT PROCEDURES](#)
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- ABC-4-2-.05 [CORRECTIVE ACTION](#)
- ABC-4-2-.06 [PROHIBITION OF RETALIATION](#)
- ABC-4-2-.07 [EMPLOYER RESPONSIBILITIES](#)
- ABC-4-2-.08 [EMPLOYEE RESPONSIBILITIES](#)
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ABC-4-2-.01 EQUAL OPPORTUNITY STATEMENT/COMPLAINT POLICY

In accordance with Title VII of the Civil Rights Act of 1964, as amended, the Agency provides all individuals with an equal employment opportunity without discrimination or harassment on the basis of race, color, national origin, religion, sex (with or without sexual conduct), age, disability, genetic information, or any other characteristic protected by law. No employment related practice or decision, shall in whole or in part, be based upon unlawful discrimination or harassment or any employee's opposition to such conduct.

Any employee who feels s/he has been discriminated against by the Agency on the basis of any of the aforementioned items should file a written complaint with the ABC Board Personnel Director. Complaints should be filed as soon as possible after the occurrence of the alleged discrimination or harassment.

In addition to internal complaint procedures, employees also have the right to appeal to the State Personnel Board under Chapter 670-X-4, Prohibition of Discrimination, Rules of the State Personnel Board ([Exhibit 4-2](#)).

Furthermore, complaints of unlawful employment discrimination may also be filed with the U.S. Equal Employment Opportunity Commission (EEOC) within 180 days of the alleged discriminatory act(s) using the following information:

U.S. Equal Employment Opportunity Commission
Birmingham District Office
Ridge Park Place
1130 22nd Street South, Suite 2000
Birmingham, Alabama 35205
TEL: (800) 669-4000
FAX: (205) 212-2105
TTY: (800) 669-6820

U.S. Equal Employment Opportunity Commission
Mobile District Office
63 South Royal Street, Suite 504
Mobile, Alabama 36602
TEL: (800) 669-4000
Fax: 251-690-2581
TTY: (800) 669-6820

Note: The complaint procedures in this chapter only refer to EEO related matters. Employees who believe they have been aggrieved in a non-EEO matter that affects his/her employment or work environment are given the opportunity to seek resolution through the supervisory chain of command.

ABC-4-2-.02 PROHIBITION OF HARASSMENT AND DISCRIMINATION

Title VII of the Civil Rights Act of 1964, as amended, *“prohibits discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment on the basis of race, color, religion, sex, or national origin.”*

It is the policy of the Agency that the work environment be free of unlawful discrimination and harassment. Harassing behavior, either physical or verbal, will not be tolerated within the Agency. The Agency will take all reasonable steps to discourage unlawful discrimination and harassing behavior from occurring and will impose appropriate corrective action where occurrences are identified. The level of corrective action will correspond with the activity and may result in termination of the offending party.

(1) Harassment - Harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual *because of* his/her race, color, religion, national origin, age, disability, or any other characteristic protected by law or that of his/her relatives, friends, or associates, and that:

- has the purpose or effect of creating an intimidating, hostile, or offensive work environment;
- has the purpose or effect of unreasonably interfering with an individual's work performance;
- or
- otherwise adversely affects an individual's employment opportunities.

Harassing conduct includes, but is not limited to:

- epithets, slurs, or negative stereotyping;
- threatening, intimidating, or hostile acts;
- denigrating jokes and display or circulation in the workplace of written or graphic material that denigrates or shows hostility or aversion toward an individual or group (including through e-mail).

For an objectionable environment to rise to the level of violating the law, it must be both objectively and subjectively offensive. This means it must be both one that a reasonable person would find hostile or abusive, and one that the victim in fact did perceive to be so. An aggregation

of a series of incidents can constitute harassment even if one of the incidents considered on its own would not be harassing.

(2) Sexual Harassment -Sexual harassment includes *unwelcome* sexually oriented conduct that is sufficiently pervasive or severe to unreasonably interfere with an employee's job performance or creates an intimidating, hostile, or offensive working environment.

While sexual harassment encompasses a wide range of conduct, some examples of specifically prohibited conduct include but are not limited to:

- promising, directly or indirectly, an employee special treatment or benefits for complying with a sexually-oriented request;
- threatening, directly or indirectly, to retaliate against an employee if the employee refuses to comply with a sexually-oriented request;
- denying, directly or indirectly, an employee an employment-related opportunity if the employee refuses to comply with a sexually-oriented request;
- engaging in sexually suggestive physical contact or touching another employee in a way that is unwelcome;
- displaying, storing, or transmitting pornographic or sexually oriented materials using Agency equipment or facilities;
- commenting about an individual's body, sexual prowess, or sexual deficiencies;
- making insulting or obscene comments or sexual gestures;
- engaging in indecent exposure; or
- making sexual or romantic advances toward an employee and persisting despite the employee's rejection of the advances.

In addition to types of sexual harassment which are described above, another variety of sexual harassment exists. In this variant, the conduct is not necessarily of a sexual nature. Instead, the harassment includes negative hazing, intimidation, or offensive remarks about members of a particular sex. This type of harassment is also impermissible.

Sexual harassment can be physical and/or psychological in nature. An aggregation of a series of incidents can constitute sexual harassment even if one of the incidents considered on its own would not be harassing.

Sexual harassment can involve harassment by members of either sex. Although sexual harassment typically involves a person in a greater position of authority as the harasser, the harasser can be the victim's supervisor, a supervisor in another area, a co-worker, a subordinate, or someone who is not even an employee of the Agency. Consensual sexual or romantic relationships between employees, consumers, vendors and/or contractors are deemed unwise and are strongly discouraged especially if one employee has supervisory authority over the other employee.

ABC-4-2-.03 COMPLAINT PROCEDURES

The Agency will not fire, demote, harass, or otherwise retaliate against anyone who makes a complaint about discrimination or harassment on the job or because they participate in any investigation or other proceeding relating to an allegation of discrimination or retaliation. The Agency will not allow any employee to fire, demote, harass, or otherwise retaliate against anyone who makes a complaint about discrimination or harassment on the job or because they participate in any investigation or other proceeding relating to an allegation of discrimination or retaliation.

The Agency strongly urges the reporting of all incidents employees perceive as being discriminatory, harassing, or retaliatory, regardless of the alleged harasser's identity or position. The Agency can only protect its employees from misconduct if it knows that it is occurring. Telling co-workers or assuming that "everyone knows" is not sufficient. Individuals who believe they have experienced conduct that is contrary to the Agency's policy or who have concerns about workplace conduct they have observed should:

- promptly report the incident to his/her immediate supervisor;
- in the event the alleged harasser is the supervisor or if the employee is uncomfortable reporting the matter to his/her immediate supervisor, the employee shall report the conduct to his/her next level supervisor;
- if the employee is uncomfortable reporting the complaint to any member of his/her supervisory chain of command, the employee shall report the conduct directly to the ABC Personnel Director and/or legal counsel;
- in the event the alleged harasser is the ABC Personnel Director or if the employee is uncomfortable reporting the matter to the ABC Personnel Director, the employee shall report the conduct to the Chief Legal Counsel for the Agency.
- any allegations regarding the Chief Legal Counsel shall be reported directly to the Administrator; or
- if an employee feels they have been subjected to unlawful discrimination or harassment by the Administrator, the employee should report the allegations to the Alabama ABC Board Chairperson or to the Chief Legal Counsel.

In no event shall the employee's complaint of harassment or discrimination be filed with or appealed to the alleged harasser.

Individuals should not feel obligated to file their complaints with their immediate supervisor first before bringing the matter to the attention of one of the other Agency designated representatives identified above.

ABC-4-2-.04 INVESTIGATION

Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of harassment. Therefore, employees are encouraged to report any incidents of unlawful discrimination or harassment as soon as possible in order to aid in the investigation and prompt resolution.

Any reported allegations of harassment, discrimination, or retaliation will be investigated promptly, thoroughly, and impartially. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge.

Confidentiality will be maintained throughout the investigatory process to the extent possible. The Agency must be able to adequately investigate the matter and implement a corrective action plan, and it cannot guarantee complete confidentiality.

The complaining employee will be notified of the results of the investigation and the corrective action, if applicable.

ABC-4-2-.05 CORRECTIVE ACTION

Misconduct constituting harassment, discrimination, or retaliation will be dealt with promptly and appropriately. Corrective action may include, for example, training, referral to counseling, monitoring of the offender, and/or disciplinary action such as warning, reprimand, suspension without pay, demotion, termination, reassignment, or withholding of a promotion.

ABC-4-2-.06 PROHIBITION OF RETALIATION

The Agency prohibits retaliation against any individual who reports discrimination or harassment or participates in an investigation of such reports. Retaliation against an individual for reporting harassment or discrimination or for participating in an investigation of a claim of harassment or discrimination is a serious violation of this policy and, like harassment or discrimination itself, will be subject to disciplinary action up to and including termination.

ABC-4-2-.07 EMPLOYER RESPONSIBILITY

Supreme Court decisions (and the EEOC Guidance) place the burden on employers to take action to prevent and remedy harassment in the workplace in order to avoid liability. Accordingly, it is the responsibility of the Agency to ensure that employees have effective avenues to bring complaints forward (not just through their supervisor); widely disseminate the policy throughout the workplace to make sure all employees know of its existence and understand the complaint procedure; respond to complaints brought under the policy by promptly and thoroughly investigating them in good faith to determine if violations of the policy have occurred; take prompt, appropriate remedial action to enforce the policy; and ensure that the designated "complaint-recipients" are well-prepared to handle the complaints they may receive.

ABC-4-2-.08 EMPLOYEE RESPONSIBILITY

All employees are responsible and accountable for avoiding any behavior which might violate any provision of these policies, for reporting any violations of the policy, and for cooperating in the investigative or remedial action under this policy.

ABC-4-2-.09 INDIVIDUALS AND CONDUCT COVERED

These policies apply to all applicants and employees and prohibit harassment, discrimination, and retaliation whether engaged in by fellow employees, by a supervisor or manager, or by someone not directly connected to the Agency (e.g., outside vendor, consultant, or customer).

Conduct prohibited by these policies is unacceptable in the workplace and in any work-related setting outside the workplace, such as during business trips, business meetings, and business-related social events. These policies may not be used as a basis for excluding or separating individuals of a particular gender, or any other protected characteristic, from participating in business or work-related social activities or discussions in order to avoid allegations of harassment.

ABC Exhibit 4-2

ALABAMA STATE PERSONNEL BOARD ALABAMA STATE PERSONNEL DEPARTMENT

ADMINISTRATIVE CODE

CHAPTER 670-X-4 PROHIBITION OF DISCRIMINATION

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670-X-4-.01 Prohibition Of Discrimination

670-X-4-.02 Affirmative Action

670-X-4-.03 Appeal Rights

670-X-4-.01 Prohibition Of Discrimination. Discrimination against any person in recruitment, examination, appointment, training, promotion, retention or any other personnel action, because of race, sex, national origin, age, handicap, or any other nonmerit factor, is prohibited.

Author:

Statutory Authority: Code of Ala. 1975, § 36-26-9.

History: Filed September 29, 1981.

670-X-4-.02 Affirmative Action. All agencies having classified employees shall adopt, maintain and actively enforce affirmative action plans to encourage employment of women and minorities at all levels and in all areas of state employment.

Author:

Statutory Authority: Code of Ala. 1975, § 36-26-9.

History: Filed September 29, 1981.

670-X-4-.03 Appeal Rights. Any applicant or employee who has reason to believe that he has been discriminated against because of religious or political opinions or affiliations or race, sex, national origin, age, or handicap in any personnel action may appeal to the State Personnel Board. The appellant and the person responsible for the alleged discriminatory action shall have the right to be heard by the Board or a special hearing agent and to present evidence. If the Board finds after hearing that there was discrimination on any of the above nonmerit factors, it shall order appropriate corrective action and its decision shall be final.

Author:

Statutory Authority: Code of Ala. 1975, § 36-26-9.

History: Filed September 29, 1981.

CHAPTER ABC-4-3

AMERICANS WITH DISABILITIES ACT, AS AMENDED

- ABC-4-3-.01 [POLICY](#)
- ABC-4-3-.02 [TERMS AND DEFINITIONS](#)
- ABC-4-3-.03 [DISABILITY DISCRIMINATION](#)
- ABC-4-3-.04 [REASONABLE ACCOMMODATION](#)
- ABC-4-3-.05 [COMPLIANCE](#)
- ABC-4-3-.06 [APPEAL/COMPLAINT PROCEDURES](#)

ABC-4-3-.01 POLICY

The ABC Board ("Agency") is committed to complying with all applicable provisions of the Americans with Disabilities Act, as amended by the Amendments Act of 2008 ("ADA"). It is the policy of this Agency not to discriminate against any qualified employee or applicant with regard to any terms or conditions of employment because of such individual's disability or perceived disability so long as the employee can perform the essential functions of the job.

Consistent with this policy of nondiscrimination, the Agency will provide reasonable accommodations to a qualified individual with a disability, as defined by the ADA, who has made the Agency aware of his/her disability, provided that such accommodation does not constitute an undue hardship on the Agency.

ABC-4-3-.02 TERMS AND DEFINITIONS

The following are terms and their definitions as applicable under the ADA:

(1) Disability - the term disability, with respect to an individual, means:

- a physical or mental impairment that substantially limits one (1) or more major life activities of such individual;
- a record of such an impairment (history of a disability or misclassification/misdiagnosis of a disability); or
- being regarded as having such an impairment (an impairment that is not substantially limiting but is perceived as being substantially limiting; or no impairment, but the perception of an impairment).

(2) Substantially limits - makes the individual unable to perform, or be significantly limited in the ability to perform, an activity compared to an average person in the general population. The determination of whether an impairment substantially limits a major life activity is made without regard to the ameliorative effects of mitigating measures such as (I) medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies; (II) use of assistive technology; (III) reasonable accommodations or auxiliary aids or services; or (IV)

learned behavioral or adaptive neurological modifications. An exception is made for “ordinary eyeglasses or contact lenses.”

(3) Major life activities - in general, major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

(4) Qualified individual with a disability - an individual with a disability who satisfies the requisite skill, experience, education, and other job-related requirements of an employment position and who can perform the essential functions of the job, with or without reasonable accommodation. The essential functions of a job are documented on job announcements and again during the hiring process.

(5) Regarded as having such an impairment - an individual meets the requirement of “being regarded as having such an impairment” if the individual establishes that s/he has been subjected to a discriminatory practice because of an actual or perceived physical or mental impairment, whether or not the impairment limits or is perceived to limit a major life activity. Impairments that are transitory and minor are not considered.

(6) Transitory impairment - impairment with an actual or expected duration of six (6) months or less.

(7) Reasonable accommodation - Reasonable accommodation is any modification or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process or to perform essential job functions. Reasonable accommodation also includes adjustments to assure that a qualified individual with a disability has rights and privileges in employment equal to those of employees without disabilities.

(8) Essential Functions - Essential functions are the basic job duties that an employee must be able to perform with or without reasonable accommodation. Essential functions are limited to the duties fundamental to a particular job or task and do not include marginal functions. Generally, a task is an essential function if:

- the performance of the task is the reason the position exists;
- a limited number of employees are available to perform the task; or
- the task may require highly specialized expertise, limiting hiring to persons with those skills or training.

Tasks may also be considered essential job functions based on the Agency’s judgment, written job descriptions and task statements, statutory requirements for the job, current and past work experience, the amount of time spent on the job function, and the consequences of failure to perform the function.

(9) Undue hardship - An accommodation that would require an unreasonably large amount of money or resources, or result in a significant negative impact on the Agency’s ability to conduct its business.

ABC-4-3-.03 DISABILITY DISCRIMINATION

Disability discrimination occurs when an employer or other entity covered by the ADA treats a qualified individual with a disability who is an employee or applicant unfavorably because s/he has a disability.

Disability discrimination also occurs when a covered employer or other entity treats an applicant or employee less favorably because s/he has a history of a disability (such as cancer that is controlled or in remission) or because s/he is believed to have a physical or mental impairment that is not transitory (lasting or expected to last six (6) months or less) and minor (even if s/he does not have such an impairment).

The law requires an employer to provide reasonable accommodation to an employee or job applicant with a disability, unless doing so would cause significant difficulty or expense for the employer ("undue hardship").

The law also protects people from discrimination based on their relationship with a person with a disability (even if they do not themselves have a disability). For example, it is illegal to discriminate against an employee because his/her spouse has a disability.

(1) Disability Discrimination in Work Situations - The law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

(2) Harassment - It is illegal to harass an applicant or employee because s/he has a disability, had a disability in the past, or is believed to have a physical or mental impairment that is not transitory and minor.

Harassment can include, for example, offensive remarks about a person's disability. Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision such as the victim being fired, demoted, or passed over for promotion.

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer such as a client or customer.

(3) Requests for Medical Information

(a) Applicant

1. **Prior to a Job Offer** - The law places strict limits on employers when it comes to asking job applicants to answer medical questions, take a medical exam, or identify a disability. For example, supervisors may not ask a job applicant to answer medical questions or take a medical exam before extending a job offer. Supervisors also may not ask job applicants if they have a disability (or about the nature of an obvious disability). Applicants can be asked whether they can perform the job and how they would perform the job, with or without a reasonable accommodation.

2. After a Job Offer - After a job is offered to an applicant, the law allows the appointing authority to condition the job offer on the applicant answering certain medical questions or successfully passing a medical exam but only if all new employees in the same type of job have to answer the questions or take the exam.

(b) Existing Employees - Once a person is hired and has started work supervisors generally can only ask medical questions or require a medical exam if medical documentation is required to support an employee's request for an accommodation or if the employer believes that an employee is not able to perform a job successfully or safely because of a medical condition. Supervisors shall consult with the ABC Personnel Director prior to resorting to such tactics.

ABC-4-3-.04 REASONABLE ACCOMMODATION

The law requires an employer to provide a reasonable accommodation to an employee or job applicant with a disability, unless doing so would cause significant difficulty or expense for the employer. Reasonable accommodation might include, for example, making the workplace accessible for wheelchair users or providing a reader or interpreter for someone who is blind or hearing impaired.

It is the policy of this Agency to provide reasonable accommodations to the known physical or mental limitations of a qualified applicant or employee with a disability unless the accommodation would impose an undue hardship on the Agency. When an applicant or employee with a qualifying disability under ADA requests an accommodation, the Agency will make a reasonable effort to provide such accommodation that is effective for the individual. The Agency does not have to provide an accommodation if doing so would cause undue hardship. However, the Agency cannot refuse to provide an accommodation simply because it involves some cost nor does it have to provide the exact accommodation the employee requests. If more than one accommodation works, the Agency reserves the right to choose the most feasible solution.

The Agency is only required to accommodate a "known" disability of a qualified applicant or employee. Accommodations are made on an individual basis, because the nature and extent of a disabling condition and the requirements of a job will vary in each case. If the individual does not request an accommodation, the Agency has no obligation to provide one except where an individual's known disability impairs his/her ability to know of, or effectively communicate a need for, an accommodation that is obvious.

(1) Procedures for Requesting an Accommodation - Qualified individuals with disabilities should make reasonable accommodation requests by completing and submitting a Reasonable Accommodation Request Form ([Exhibit 4-3](#)) along with any supporting documentation (e.g., medical provider's diagnosis, prognosis, or accommodation suggestion), if applicable, directly to the ABC Personnel Director or his/her designee. Upon receipt of the accommodation request, a discussion will be held with the requestor to identify the precise limitations resulting from the disability and the potential accommodation that the Agency might make to help overcome those limitations.

The ABC Personnel Director and/or designee, in conjunction with the appropriate management representatives (i.e., the individual's supervisor/Division Head), will determine if the requested accommodation is reasonable. The requestor will be notified of the decision regarding the accommodation request through written correspondence.

(2) Types of Reasonable Accommodations - There are many types of reasonable accommodations. The ADA, however, does not require the Agency to make the best possible accommodation, to reallocate essential job functions, or to provide personal use items (i.e., eyeglasses, hearing aids, wheelchairs, etc.). The following list is intended to provide information on some of them.

- Job restructuring - this may include reallocating or redistributing marginal job functions among different positions or altering how a job is to be performed. **The Agency has no obligation to reallocate essential functions as a reasonable accommodation.**
- Leave - permitting the use of accrued paid leave, or unpaid leave, is a form of reasonable accommodation when necessitated by an employee's disability.
- Modified work schedule - a modified work schedule may involve adjusting work time such as arrival or departure times, length of shift, additional breaks, or longer rest periods.
- Acquisition or modification of equipment or devices - accommodation may be accomplished by modifying the employee's work station or equipment. An accommodation could be as simple as rearranging furniture. Other examples include purchase of an adjustable chair, large-screen monitor, anti-glare filter for monitor, adjustable key board tray, split key board, adjustable foot rest, or other items.
- Reassignment - moving an employee to a vacant, funded position is deemed a reasonable accommodation under the ADA. Rules of the State Personnel Board must be followed when making any reassignment. The employee must be qualified for the vacancy, but need not necessarily be the most qualified person for the job. EEOC guidelines describe reassignment as the "reasonable accommodation of last resort" although there is nothing to stop the employer and employee from agreeing to reassignment as the initial remedy.

ABC-4-3-.05 COMPLIANCE

To ensure compliance with the ADA, it is Agency policy to:

- Ensure that qualified individuals with disabilities are treated in a nondiscriminatory manner in the pre-employment process and that employees with disabilities are treated in a nondiscriminatory manner in all terms, conditions, and privileges of employment.
- Require medical examinations to employees only when justified by business necessity, such as for a fitness-for-duty exam or for-cause testing.
- Keep all medical-related information confidential in accordance with the requirements of the ADA and retain such information in separate confidential files.
- Provide applicants and associates with disabilities with reasonable accommodations, except where such an accommodation would create an undue hardship on the ABC Board.

ABC-4-3-.06 APPEAL/COMPLAINT PROCEDURES

If an ADA accommodation request is denied, the individual can appeal the decision. Appeals should be made in writing to the ABC Personnel Director and include documentation supporting the reconsideration request. Appeals must be filed within ten (10) calendar days after being notified of the initial decision. Upon receipt of the appeal, management will reconsider the request and offer a final decision. The ABC Personnel Director or designee will notify the individual making the appeal of the final decision in writing.

If an employee is not satisfied with the Agency's resolution, s/he may file a complaint with the Equal Employment Opportunity Commission (EEOC).

ABC Exhibit 4-3 (ADA – Reasonable Accommodation Request Form)



Alabama Alcoholic Beverage Control Board
Personnel Division
2715 Gunter Park Drive West
Montgomery, AL 36109
Phone: 334-260-5439 Fax: 334-260-5450



AMERICAN WITH DISABILITIES ACT
REASONABLE ACCOMMODATION REQUEST FORM

Purpose. This form is to be used by qualified individuals with a disability to request an accommodation that will enable them to perform the essential functions of their position. In most cases, this form must be supplemented by information from a medical provider indicating that the requested accommodation will enable the employee to perform the essential functions of his/her position. Completed forms and medical documentation, if applicable, should be forwarded through the employee’s supervisory chain of command to the ABC Personnel Director. The ABC Personnel Director should be notified immediately if an accommodation request is neglected and/or ignored.

Name: _____

Work Location: _____

Job Classification: _____

Supervisor: _____

Accommodation Request: _____

Reason for Request: _____

Employee Signature: _____ Date: _____

CHAPTER ABC-4-4

DRUG-FREE WORKPLACE POLICY

ABC-4-4-.01	<u>POLICY</u>
ABC-4-4-.02	<u>COVERED INDIVIDUALS</u>
ABC-4-4-.03	<u>DEFINITIONS</u>
ABC-4-4-.04	<u>PROHIBITED BEHAVIOR</u>
ABC-4-4-.05	<u>EMPLOYEE NOTIFICATION REQUIREMENTS</u>
ABC-4-4-.06	<u>SEARCH OF PERSONAL PROPERTY</u>
ABC-4-4-.07	<u>DRUG & ALCOHOL SCREENING PROCEDURES</u>
ABC-4-4-.08	<u>DRUG & ALCOHOL SCREEN RESULTS</u>
ABC-4-4-.09	<u>CONSEQUENCES FOR POLICY VIOLATIONS</u>
ABC-4-4-.10	<u>EMPLOYEE ASSISTANCE</u>
ABC-4-4-.11	<u>CONFIDENTIALITY</u>
ABC-4-4-.12	<u>COMMUNICATION OF POLICY</u>

ABC-4-4-.01 POLICY

The Agency is committed to protecting the safety, health, and well being of all employees and other individuals in our workplace; therefore, the use of alcohol and other illegal or controlled substances is strictly prohibited in the workplace.

This policy is not intended to interfere with an employee's right to make their own lifestyle choices; however, when the use or abuse of any mood or mind-altering substance interferes with an employee's mental and/or physical condition at work, appropriate disciplinary action must and will be taken to maintain a safe workplace. Employees struggling with substance abuse issues are encouraged to seek appropriate levels of assistance. (See [Chapter ABC-4-12 Employee Assistance Program](#))

ABC-4-4-.02 COVERED INDIVIDUALS

Any individual who conducts business for the Agency, is applying for a position, or is conducting business on Agency property is covered by this Drug-Free Workplace Policy.

ABC-4-4-.03 DEFINITIONS

- (1) **Alcohol Use** - The consumption of any beverage, mixture, or preparation containing alcohol.
- (2) **Alcohol** - An intoxicating agent such as ethanol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.
- (3) **Conviction** - means a finding of guilt (including a plea of nolo contendere) or the imposition of a sentence by a judge or jury in any federal or state court.
- (4) **Drug Test** - Any chemical, medical, mechanical, or toxicological test or screening process used to test for the presence of ethyl alcohol and/or controlled substances.
- (5) **Employee** - For purposes of this policy, any full-time, temporary, or part-time worker.

- (6) **Employee Assistance Program (EAP)** - An established program for employee assessment, counseling, and possible referral to an alcohol and/or drug rehabilitation program coordinated through the Department Finance's Division of Risk Management (DORM).
- (7) **Non-Prescription Controlled Substance** - This term means the following five (5) drugs and their metabolites plus any added under 49 CFR, Parts 40 and 382: Cannabinoids (Marijuana) (THC); Cocaine; Opiates (including Heroin); Amphetamines; and Phencyclidine (PCP).
- (8) **Prescription Controlled Substance** - Medications prescribed to the named employee by a licensed physician.
- (9) **Reasonable Suspicion** - A circumstance in which, based upon the observation of abnormal and suspicious behavior or upon oral or written evidence, an employee is believed to have consumed a controlled substance and/or alcohol in violation of this policy.
- (10) **Safety Sensitive Area** - Any physical area where the work operations and/or the equipment or materials utilized for such work pose a substantial risk of physical injury or death and in which it has been determined that drug or alcohol impairment increases the level of such risk. This includes all employees who work in the ABC Warehouse and all employees who are required to operate a motor vehicle or other machinery while performing job responsibilities.
- (11) **Security Sensitive Job Classification** - Any job classification or task(s) wherein secure, sensitive, and/or private information or material is handled, processed, or stored and where it has been determined that drug or alcohol impairment increases the risk of mishandling such information.
- (12) **Under the Influence of Alcohol** - A person who tests 0.02 or greater on the portable breath testing (PBT) instrument or another approved testing method.

ABC-4-4-.04 PROHIBITED BEHAVIOR

- (1) **Alcohol** - Employees are prohibited from the use of alcohol while on state property and/or while operating state-owned or leased vehicles, machinery, equipment, or other property. Employees shall not report for duty or attempt to work under the influence of alcohol. Employees shall not be in possession of any open or unsealed containers of alcohol on Agency property or in State-owned/leased vehicles.
- (2) **Non-Prescription Controlled Substances** - Employees are prohibited from the unlawful manufacture, distribution, dispensation, possession, promotion, sale, or use of illegal drugs or drug paraphernalia while performing job duties for the Agency, while on Agency property, while operating state-owned or leased vehicles, machinery, equipment, or other property, while in travel status, or while being responsible for the safety of others.
- (3) **Prescription Controlled Substances** - Prescription drugs are not prohibited when taken according to a physician's prescription. Any employee taking prescribed medications will be responsible for consulting the prescribing physician and/or pharmacist to ascertain whether the medication may interfere with safe performance of his/her job. If the use of a medication could compromise the safety of the employee, co-workers, and/or the public, the employee shall report this to his/her immediate supervisor, IN PERSON AND IN WRITING, prior to reporting for work.

Employees who fail to provide this information, prior to reporting for work, shall subject themselves to disciplinary action.

Employees whose consumption of prescribed controlled substances will affect performance of duties, shall be placed on sick leave until such time as the prescribing authority indicates, in writing, the employee is fit for duty. In such case, the employee will have the option of voluntarily taking leave (sick, annual, leave without pay, etc.) or a supervisor will ask that the employee be placed on mandatory leave (which requires approval of the State Personnel Director).

The illegal or unauthorized use of prescription drugs is prohibited. It is a violation of our Drug-Free Workplace Policy to intentionally misuse and/or abuse prescription medications. Appropriate disciplinary action will be taken for job performance deterioration and/or other incidents.

ABC-4-4-.05 EMPLOYEE NOTIFICATION REQUIREMENTS

(1) **Criminal Drug Offense** - Any employee convicted of a criminal drug violation must notify the ABC Personnel Director in writing within five (5) calendar days of the conviction. Federal contracting agencies will be notified when appropriate. A failure to notify the ABC Personnel Director of such a conviction is grounds for termination from State service.

(2) **Driver's License Revocation** - Employees who are required to operate state-owned or leased vehicles, machinery, equipment, or other property shall inform his/her supervisor at the beginning of the employee's next work period if his/her driver's license has been suspended or revoked. Employees' occupying positions where the possession of a valid driver's license is an essential function could result in his/her termination from State service.

ABC-4-4-.06 SEARCH OF PERSONAL PROPERTY

Employees suspected of violating the Drug-Free Workplace Policy may be asked to submit to a search or inspection of personal property at any time.

ABC-4-4-.07 DRUG & ALCOHOL SCREENING PROCEDURES

(1) **Pre-Employment** - It is the policy of the Agency to require prospective employees to pass a pre-employment drug screen as a condition of employment prior to their start date. The Agency will not employ individuals who test positive for the illegal use of a controlled or synthetic substance.

STEP 1: After a conditional offer for employment has been made, the prospective employee must read the ABC Board Drug-Free Workplace Policy and sign a Consent to Test for Drugs and Alcohol Form ([Exhibit 4-4A](#)).

STEP 2: The hiring supervisor is responsible for arranging the drug screen at a designated collection facility. The prospective employee must present a valid personal I.D. in order for the drug screen to be completed.

STEP 3: The prospective employee will be required to provide a urine sample. The collection facility will collect the sample and submit it to the appropriate laboratory.

(a) Candidate Refusal - If the prospective employee refuses to sign and agree to the terms of the Consent to Test for Drugs and Alcohol Form or go to the collection facility for a drug screen, the conditional employment will be rescinded and s/he will be disqualified from further employment consideration.

(b) Drug Screen Results

1. Negative - If the initial drug screen is negative (the candidate passed the drug test), the screening facility will notify the appropriate Agency representative of the results, who, in turn, will notify the hiring supervisor. At this point, a start date can be determined.
2. Positive - If the initial drug screen is positive, the results are sent to a certified laboratory where a complete analysis of the sample is conducted. A certified Medical Review Officer (MRO) receives this information and completes a thorough investigation, including an interview with the candidate to determine if there are any legal medical reasons for the status of the drug screen. The MRO makes a final determination if the drug screen has a positive or negative result and forwards the information to the appropriate Agency representative, who, in turn, notifies the hiring supervisor.

A positive result will require the conditional employment offer to be withdrawn; thus, disqualifying the prospective employee from further employment consideration. In such a case, the hiring supervisor will notify the candidate that s/he is not eligible for employment consideration. ABC Personnel will then submit a request to the State Personnel Director requesting that the candidate be removed from the hiring register.

(c) Reasonable Accommodations - Reasonable accommodations will be made available to candidates who may require assistance (e.g., individuals with visual impairments, etc.). In addition, the collection facility will also follow through on providing reasonable accommodations to individuals with disabilities.

(2) Safety/Security Sensitive Personnel - Employees working in a "Safety-Sensitive" area or in a "Security-Sensitive" job classification will be required to participate in pre-employment, random, post-accident, reasonable suspicion, return-to-duty, and follow-up drug testing upon selection or request of management to screen for the use or abuse of alcohol and all controlled substances (legal and illegal) that have the potential to affect safety and/or security.

(3) Reasonable Suspicion - Any Agency employee, in any position or grade, who exhibits strange, abnormal, or unusual behavior(s) while on duty that creates a reasonable suspicion that the employee is under the influence of alcohol or controlled substances may be required to submit to a drug and/or alcohol screen. The following criteria provide good reasons for requesting a test:

- Excessive absenteeism or tardiness;
- Significant deterioration in job performance;
- Significant change in personality (such as depression, mood swings, euphoria, secretiveness, abusive behavior), as exhibited by behavior such as insolence, violence, insubordination;
- Unexplained absences from normal work sites;
- Detrimental changes in personal hygiene or demeanor;
- Physical symptoms such as reddened eyes or dilated or constricted pupils;

- Odor of a controlled substance;
- Slurred or incoherent speech;
- Unusual difficulty in motor coordination;
- Information that an employee has caused or greatly contributed to an accident on ABC Board property or while conducting Agency business; and/or
- Direct observation of alcohol and/or controlled substance use and/or possession, physical symptoms, or odors.

Note: It is not possible to list every factor that might lead to a decision to test and, while any of the aforementioned factors might also be present for reasons not associated with substance abuse, the list is representative and should be observed and noted appropriately.

(a) Documentation Procedures - The behavior leading to reasonable suspicion testing must be documented by observers (e.g., co-workers, supervisors, clients, or others). Each observer shall prepare and sign the Reasonable Suspicion Checklist ([Exhibit 4-4A](#)) detailing the employee's behavior prior to testing. The completed form must immediately be forwarded to the ABC Personnel Director or his/her designee for review and consideration. Observers are prohibited from discussing the surrounding circumstances with others who do not have a need to know.

Note: Incidents leading to a decision to test occurring outside of normal business hours are required to contact the ABC Personnel Director or his/her designee the following business day unless the observer(s) believe the suspected employee's behavior endangers the safety of others. In this scenario, a supervisor is responsible for either taking the employee home or ensuring that the employee is taken home by another party.

(b) Drug & Alcohol Screening Procedures - Once an employee's behavior has been reported and a determination has been made that a drug screen and/or alcohol test is warranted, the following steps are required:

STEP 1: The supervisor will inform the employee that s/he will be required to submit to a drug screen and/or alcohol test.

STEP 2: The supervisor will have the employee read and sign the Consent to Test for Drugs and Alcohol ([Exhibit 4-4B](#)). Refusal to sign the form is considered insubordination and could be grounds for termination.

STEP 3: The supervisor and one (1) other co-worker (preferably another supervisor) will transport the employee to and from an authorized testing facility (e.g., [LabCorp](#)).

STEP 4: The circumstances of each incident will be evaluated carefully by the supervisor in concert with the ABC Personnel Director to determine whether an employee may be permitted to continue work pending the results of a drug screen. In order for an employee to return to work prior to receipt of the test results, it must be clear to the supervisor that the employee's continuation of work will not breach security or risk the health, safety, or property of any person, including the employee, co-workers, the employer, or members of the public, or cause any other problem relating to the Agency's ability to provide services and manage the workplace.

If the supervisor doubts an employee's fitness for duty, it is possible to place the employee on mandatory leave until the test results have been received. Supervisors must coordinate with the ABC Personnel Director to place an employee on mandatory leave as State Personnel Director authorization is required. In this scenario, the supervisor is responsible for ensuring that the employee is transported home by a third party.

(4) On-the-Job Injury - Employees who are injured while performing job responsibilities, based on the details associated with the incident, may be subject to a post-accident alcohol and/or drug screen.

(5) Vehicle Accident - Employees who are involved in an accident while operating a state vehicle or on Agency business that causes more than one thousand dollars (\$1,000) in damage to property or requires medical attention away from premises will be required to submit to an alcohol and/or drug screen.

(6) Refusal to Participate - An employee will be subject to the same consequences of a positive test if s/he refuses the screening or the test, adulterates or dilutes the specimen, substitutes the specimen with that from another person or sends an imposter, will not sign the required forms, or refuses to cooperate in the testing process in such a way that prevents completion or alters the results of the test.

ABC-4-4-.08 DRUG & ALCOHOL SCREEN RESULTS

To ensure the accuracy and fairness of our testing program, all testing will be conducted according to Substance Abuse and Mental Health Services Administration (SAMHSA) guidelines where applicable and will include a screening test, a confirmation test, the opportunity for a split sample, review by an MRO, including the opportunity for employees who test positive to provide a legitimate medical explanation (e.g., physician's prescription) for the positive result, and a documented chain of custody.

(1) Negative Result - The MRO shall report the results to the appropriate Agency representative, who, in turn, will notify the ABC Personnel Director. A negative report will be filed in a confidential medical file within the ABC Personnel Division.

(2) Positive Result - The MRO shall, after reviewing all relevant medical records, notify the employee, and set up a time to discuss any medical factors (such as taking medications) which could adversely affect the outcome of the test. The MRO will then report results to appropriate Agency representative, who, in turn, will notify the ABC Personnel Director.

(a) Exceptions - Positive test results showing the presence of a controlled substance shall not constitute a violation of this policy if:

- The controlled substance has been prescribed by a licensed physician, osteopath, nurse practitioner, or dentist;
- The controlled substance has been dispensed by a licensed dispenser (pharmacist) and a current prescription is held by the employee or applicant; and
- Notice has been given to the appointing authority or the immediate supervisor by the employee or applicant concerning the prescribing, dispensing, and consumption of said

controlled substance.

These exceptions shall not apply if the positive test results are above the normal therapeutic levels established by the United States Food and Drug Administration.

ABC-4-4-.09 CONSEQUENCES FOR POLICY VIOLATIONS

One of the goals of the Agency's Drug-Free Workplace Policy is to encourage employees to voluntarily seek help with alcohol and/or drug problems. If, however, an employee violates the policy, the consequences are serious as s/he will most likely be terminated from employment.

Applicants who cannot adhere to the Drug-Free Workplace Policy will have the conditional offer of employment withdrawn and negatively impact the applicant's ability to remain on the hiring register in which they were selected.

ABC-4-4-.10 EMPLOYEE ASSISTANCE

The Agency recognizes that alcohol and drug abuse and addiction are treatable illnesses. Moreover, the Agency realizes that early intervention and support improve the success of rehabilitation. To support our employees, our Drug-Free Workplace Policy:

- Encourages employees to seek help if s/he is concerned about the possibility of a drug and/or alcohol problem of their own or of a family member.
- Offers all employees and their family member's assistance with alcohol and drug problems through the Employee Assistance Program (EAP). Refer to [Chapter ABC-4-12 Employee Assistance Program](#) for specific information.
- Allows the use of accrued paid leave while seeking treatment for alcohol and other drug problems.

Treatment for alcoholism and/or other drug use disorders may be covered by the employee benefit plan. However, the ultimate financial responsibility for recommended treatment belongs to the employee.

An employee who participates in an EAP or other program may be eligible for leave under the Family and Medical Leave Act (FMLA). Refer to [Chapter ABC-4-9-.07](#) for additional information.

ABC-4-4-.11 CONFIDENTIALITY

All information involving medical examinations, testing, counseling, rehabilitation, treatment, or discipline of an employee shall be treated as confidential medical information. Any willful disclosure of such information is in violation of this policy and the Agency policy on confidentiality and will result in disciplinary action up to and including termination.

ABC-4-4-.12 COMMUNICATION OF POLICY

Communicating the Agency's Drug-Free Workplace Policy to both supervisors and employees is critical to our success. To ensure all employees are aware of their role in supporting our Drug-Free Workplace Program all employees will receive a written copy of the policy. Divisions are

responsible for implementing this policy and all employees must read and sign the Drug-Free Workplace Policy Acknowledgment Form ([Exhibit 4-4C](#)). The signed Drug-Free Workplace Policy Acknowledgment Form will be forwarded to the ABC Personnel Division where it will be filed in each employee's Agency work history file.

ABC Exhibit 4-4A

Reasonable Suspicion Checklist



This form is to be used to document the reason(s) for requesting that an employee submit to an alcohol and/or other controlled substance screening test. Only those questions which apply should be answered. Refer to ABC Personnel Policies and Procedures Chapter ABC-4-4-.07 (3) for information regarding the use of this form.

Employee Name: _____ Classification: _____

Work Location (Include District, Store Number): _____

A. Was there an incident? Yes No

If yes: Date: _____ Time: _____ Location: _____

Details of Incident/Employee Actions:

EXHIBIT ONLY

B. Were there any injuries and/or damaged property? Yes No

If yes, describe the extent of the injury and/or damaged property:

Authorized forms are published on Agency website

Using the space below, record the employee's observed behavior. Check all of the items below that apply and include specific descriptions for reasonable suspicion for the use of alcohol and/or other controlled substances.

Cause for Reasonable Suspicion: Alcohol Other Controlled Substance(s)

1. MOTOR COORDINATION:

- Falling, Can't walk/stand, Rigid, Holding on, Unsteady, Staggering, Stumbling, Feet wide apart, Swaying

Describe: _____

2. SPEECH:

- Silent, Slobbering, Slurred, Incoherent, Slow, Rambling, Shouting, Whispering, Profanity

Describe: _____

3. Demeanor:

- Paranoid, Hyperactive, Violent/Fighting, Confused, Excited, Moody, Sad/Depressed, Edgy, Overly Sensitive

Describe: _____

4. APPEARANCE/ODOR:

- Flushed, Puncture Marks, Odor of Alcohol, Dilated Pupils, Constricted Pupils, Tremors, Bloodshot Eyes, Hygiene Fluctuations, Other

Describe: _____

Reasonable Suspicion Checklist
Page 2 of 2

5. JOB PERFORMANCE:

Significant deterioration in job performance

Describe: _____

6. JOB ATTENDANCE:

Excessive Absenteeism Excessive Tardiness

7. OTHER OBSERVATIONS/FACTORS:

Date of this report: _____

Name of Observing Employee: _____ Classification: _____

Signature of Observing Employee: _____ Phone Number: _____

NOTE: This report and the circumstances involved are confidential and must not be discussed with other employees. Failure to comply with this directive will result in disciplinary action up to and including termination.

EXHIBIT ONLY

Authorized forms are published on Agency website

ABC Exhibit 4-4B

Consent to Test for Drugs and Alcohol



I, the undersigned, understand that, in accordance with the ABC Board's policy of providing the people it serves and its employees a safe work environment which is free from the effects of controlled substances, I am being asked to undergo a substance abuse screening test. I understand that this is not a diagnostic examination designed to detect hidden or latent disease, but is instead for the purpose of screening for controlled substances. I also understand that refusal to sign this form could jeopardize future employment with the ABC Board or be considered insubordination and be grounds for termination.

I authorize the release of the results of this test to the Alabama ABC Board, the Medical Review Officer, and to such health insurers and health care groups that may be under contract to provide employee health care.

Employee Name: _____ Classification: _____

Employee Signature: _____ Date: _____

EXHIBIT ONLY

Authorized forms are published on Agency website

ABC Exhibit 4-4C

Drug-Free Workplace Policy Acknowledgment



I, the undersigned, an employee of the Alabama ABC Board, hereby acknowledge that I have received and read ABC Personnel Policies and Procedures Chapter ABC-4-4 Drug-Free Workplace and understand the ABC Board's requirements regarding the maintenance of a drug-free workplace. I realize that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited at my workplace. I understand that violating these prohibitions can subject me to discipline up to and including termination. I acknowledge that as a condition of employment, I must abide by the requirements of this policy in this regard and I will notify my supervisor of any criminal drug conviction for a violation occurring in the workplace no later than five (5) work days after such conviction. I further realize that federal law may mandate that the agency appointing authority communicate this conviction to an appropriate federal agency, and I hereby waive any and all claims that may arise for conveying this information to the federal agency.

Employee Name: _____ Classification: _____

Employee Signature: _____ Date: _____

EXHIBIT ONLY
Form included in Employee New Hire Packet

CHAPTER 4-5

RECRUITMENT AND SELECTION

ABC-4-5-.01	POLICY
ABC-4-5-.02	RECRUITMENT
ABC-4-5-.03	TYPES OF APPOINTMENTS
ABC-4-5-.04	SELECTION PROCEDURES
ABC-4-5-.05	BEGINNING EMPLOYMENT

ABC-4-5-.01 POLICY

The Agency recognizes the importance of hiring the most highly qualified candidates in all positions. The Agency provides equal employment opportunities to all employees and applicants for employment without regard to race, color, sex, national origin, religion, age, marital status, disability, pregnancy, genetic information or family medical history, and military/veteran status, or any other status protected under applicable Federal, State, or Local law. This policy applies to all terms, conditions, and privileges of employment. The Agency also adheres to applicable state and federal guidelines including the State Merit System Laws, [Rules of the State Personnel Board](#), Alabama Taxpayer and Citizen Protection Act (Act 2011-535), and applicable state and federal employment laws.

The Agency recognizes the importance of hiring the most highly qualified candidates in all positions. Every effort is made to accomplish this task through adherence with applicable state and federal guidelines to primarily include State Merit System Laws, [Rules of the State Personnel Board](#), Alabama Taxpayer and Citizen Protection Act (Act 2011-535), Title VII of the Civil Rights Act of 1964, Americans with Disabilities Act as amended, etc.

ABC-4-5-.02 RECRUITMENT

The recruitment of qualified applicants is shared between the Agency and the State Personnel Department. The State Personnel Department conducts recruitment by providing individuals, institutions, and organizations with blank application forms, employment guides, and Examination Announcements. Further, the State Personnel Department actively promotes the use of their [website](#) to encourage qualified applicants to apply for jobs in which they are interested. In addition to recruitment for classifications that are open on a continuous and/or current basis, the State Personnel Department also maintains a list where interested applicants are notified when a classification is opened for recruitment.

Agency Division Heads are primarily responsible for the recruitment of applicants into specialized/Agency-specific job classifications. Potential recruitment methods may consist of visiting colleges/universities, private industry, etc. or by placing advertisements with various media outlets.

The ABC Personnel Director shall serve as a resource by advising and assisting Division Heads in the development and implication of appropriate recruiting activities.

ABC-4-5-.03 TYPES OF APPOINTMENTS

All vacancies in the classified service shall be filled by original appointment, reemployment (to include retirees), transfer, promotion, demotion, and extraordinary appointments (e.g., temporary, emergency, and provisional) as provided in the Merit System Act.

(1) Original Appointments - appointments to positions in the classified service that are not filled through reemployment, transfer, promotion, or demotion. Such appointments are made from a Certification of Eligibles ("Certificate") provided to the Agency by the State Personnel Department.

The Agency promotes the employment of veterans who are deemed eligible for employment. Should an eligible veteran be passed over in favor of a non-veteran with the same or lower ranking a written explanation to the State Personnel Department is required.

(2) Reemployment - Former employees who held permanent status in the classified service and who left service in good standing due to resignation or employees terminated during probation for budgetary purposes are entitled to have their names placed on a reemployment list for the classification they held. At any time during the first two (2) years after separation the placement on the reemployment list is routine by providing a written request to the State Personnel Department. Beyond that, there is a provision to extend reemployment eligibility one (1) year at a time for up to two (2) additional years. To qualify for an extension, a written request must be made to the State Personnel Department that includes verification of either related work being performed or related coursework having been taken.

(a) Waiting Period after Separation - Employees who are separated from State service and received payment for accrued annual leave cannot be reemployed until the break in service is equal to the amount of work days for which they received payment or unless they repay the difference.

(b) Salary Rate - An individual may be appointed from a reemployment register at the same pay rate or the closest rate to the salary s/he was earning at the time of separation (Rules of the State Personnel Board 670-X-8-.05). However, the employee may be hired at a lower salary rate if s/he agrees to accept it.

(c) Probationary Period - A reemployment appointee serves at least a three (3) month probationary period as opposed to the normal six (6) months required for a new appointee. However, probationary periods can be extended at the request of the employee's supervisor if additional training and/or observation is required. Other provisions apply to employees who were separated from service due to a layoff.

(3) Retired State Employee - State Merit System retirees are eligible for reemployment through the use of the hourly, conditional classification of Retired State Employee (11903), General Option (003) or Law Enforcement Option (181). Appointments are made following regular reemployment guidelines. State Merit System retirees who are no longer eligible for reemployment (retired more than four (4) years ago), can have their name added to a regular register for the Retired State Employee classification by filing an application through the regular examination process.

*Individuals who were public officials, directors, assistant directors, department or division chiefs, purchasing or procurement agents having the authority to make purchases, or any person who participated in the negotiation or approval of contracts, grants or awards are specifically prohibited by the "Revolving Door Provision" of the State Ethics Law from entering into a contract with or otherwise accepting reemployment with the agency or department from which they separated from service for a period of two (2) years after that separation. See, ALA. CODE § 36-25-13 (1975). Any individual who falls under the above definition may not be rehired as a "retired state employee" by the department from which they were last employed for a period of two (2) years. Questions concerning the applicability of the "Revolving Door" to a specific fact situation should be referred to the Alabama Ethics Commission.

(a) Waiting Period after Separation - As with other appointments, persons hired in this classification must remain off the payroll until the number of hours/days has passed to equate to the terminal annual leave payment made to the employee.

(b) Salary Rate/Limitations - Consistent with rules governing the reemployment of other employees, the initial salary of a retiree cannot exceed the hourly equivalent of the pay rate earned by the retiree in the last classified position/class in which s/he attained status prior to retirement.

Salaries paid to Retired State Employees must be within the limits established by the Retirement Systems of Alabama. It is the employee's responsibility to monitor his/her earnings so the cap is not exceeded. The ABC Payroll Officer can offer assistance in determining earning status as requested.

(c) Benefits - Retired State Employees are not eligible for longevity pay or most other benefits normally awarded to State employees (special provisions apply to Health Insurance for Retirees).

(d) Performance Appraisal - Regular performance evaluation procedures shall be followed for Retired State Employees as they are eligible for annual raises.

(e) Return to Active Employment - If an employee elects to freeze his/her retirement and return to active employment with the State, s/he no longer meets the qualifications for this classification and must vacate the class and position.

(4) Transfer

(a) Interdepartmental - An interdepartmental transfer is the transfer of a classified employee between departments. This transaction requires the approval of both appointing authorities as well as the State Personnel Department. The losing department typically initiates the personnel action by submitting a Form 11 - Recommendation for Personnel Action ([Exhibit 4-5A](#)) to State Personnel. Special attention must be given to the employee's leave status because the appointing authorities must agree to a disposition of the leave balances prior to the transfer being effective. Accumulated leave may be transferred, or, if the new department will not accept the accumulated leave, the employee loses it or must use it prior to the transfer. Accumulated compensatory time obligations are not transferable between departments and must be liquidated prior to transfer.

(b) Intradepartmental - An intradepartmental transfer is the transfer of a classified employee to another position or jurisdiction within the Agency. Most intradepartmental transfers are done voluntarily through the request of an employee. However, the Administrator may, at any time, assign a classified employee under his/her jurisdiction from one position to another in the same class (Rules of the State Personnel Board 670-X-9-.04). A Division Head desiring to make such a transfer should provide the Administrator with a written request (submitted through the Personnel Director) documenting the circumstances of such a transfer. All transfers must be approved by the State Personnel Department in advance and may require the completion of an updated Position Classification Questionnaire (Form 40) for the affected position(s).

(c) Transfer on Probation - Employees serving a probationary period are required to be in a certifiable position on the appropriate register at the time of the transfer. Probationary employees should not be transferred unless the transfer is first authorized by the State Personnel Department.

(5) Promotion - A promotion is an appointment of a classified employee to a position in a higher classification from a position in a lower classification. This may occur within the Agency or between departments and is accomplished via the completion of a Certificate created and maintained by the State Personnel Department.

All procedures governing [original appointments](#) from certificates apply. Upon promotion, the salary rate of the employee must be raised to at least the minimum rate of the pay range for the higher classification. If the employee's pay is already within the pay range of the higher classification, the employee may be given up to a two (2) step promotional increase, although it is not required. Promotional appointments must be effective the first day of a pay period.

(6) Demotion - A demotion is the assignment of an employee from a position in a higher classification to a position in a lower classification. Demotion is an appropriate action when there is a pattern of substandard performance. The Administrator, upon providing reasoning for such an action to the State Personnel Director and to the employee, may, with the approval of the State Personnel Department, demote a classified employee under his/her jurisdiction. A Division Head that desires to demote an employee, whether voluntary or involuntary, will consult with the ABC Personnel Director and submit a memorandum of justification to the Administrator.

(a) Due Process/Appeal Rights - The employee who is to be involuntarily demoted is entitled to due process and, should the decision be made to demote the employee, must be given notice of appeal rights to the State Personnel Director.

(b) Salary Rate - When an employee is demoted, his/her salary must be reduced to at least the maximum rate for the new classification. If the employee's present salary falls within the range for the lower classification, the salary may be decreased at the time of the demotion, at the request of the Administrator.

(7) Extraordinary Appointment - An extraordinary appointment is one that does not involve the more usual personnel transactions such as transfer, promotion, demotion, or initial appointment. A Division Head who desires to consider such appointments will coordinate with the ABC Personnel Director to determine applicability.

(a) Provisional Appointment - Provisional appointments are utilized when there is no appropriate register from which a regular appointment can be made or when there are fewer than three (3) available candidates. In no case will a provisional appointee serve more than 156 days actually worked or, if part-time, more than 1,248 hours. Once an examination is given by the State Personnel Department and a register is established, the top ten (10) scoring applicants, plus ties, will automatically be certified. In order to appoint the provisional appointee, s/he must be on the Certificate in reachable position. Should the provisional appointee be hired from the register, the time served during the provisional appointment does not count toward the completion of the probationary period.

(b) Temporary Appointment - When service to be provided by an employee is for a temporary period not to exceed 104 days actually worked, or 832 hours, a person may be selected without regard to their standing on such register.

1. Successive non-competitive appointments to the same position, or of the same person, shall not be made under this provision as there must be a break in service of at least 60 calendar days.
2. Temporary employees do not participate in the retirement program, do not receive State employee health insurance benefits, nor do they accrue annual leave. Temporary employees are eligible to accrue sick leave.
3. A Division Head who desires to appoint a person in a temporary position will coordinate with the ABC Personnel Director as to the appropriate class and submit a memorandum of justification to the Administrator. In order to be approved for appointment, the candidate must meet the minimum qualifications for the designated classification. The minimum qualification review is conducted by the State Personnel Department.
4. Temporary appointments may be made to unskilled laborer positions through the completion of a Form 8 - Notice of Appointment to Labor Position ([Exhibit 4-5B](#)). The Form 5 - Departmental Appointment Notification Form ([Exhibit 4-5C](#)) permits rapid appointments to temporary classifications such as Clerical Aide and Warehouse Worker.

(c) Emergency Appointment - When an emergency arises an appointing authority may request authorization to employ a qualified individual immediately without taking time to secure a Certificate from the State Personnel Department. This action must be approved by the State Personnel Director and not exceed ten (10) work days.

ABC-4-5-.04 SELECTION PROCEDURES

Division Heads having the need to fill a vacant position(s) shall submit a written request to the ABC Personnel Director. Valid requests will be forwarded to the Accounting Division to verify funding availability. Should funding be available, the request will be submitted to the Administrator for final review and authorization.

The ABC Personnel Division shall control the appointment process for all appointments and position control functions following applicable Agency, state, and federal guidelines and mandates. Division Heads are responsible for coordinating the interview and selection process

within his/her respective division. Division Heads must ensure that all parties involved in the interview and selection process have received adequate training in all applicable areas of employment law. Assistance in attaining adequate training can be coordinated through the ABC Personnel Division in concert with outside training entities to include the State Personnel Department's Training Division.

Note: The Agency does not encourage the employment of relatives through temporary, provisional, or direct appointments (to include laborer positions). Employment of a relative from a Certificate and through lateral transfer is permissible; however, an employee will not be permitted to directly supervisor a relative. Degree of kinship for a relative is defined as: spouse, children, grandchildren, parents, grandparents, siblings, parents-in-law, daughters-in-law, and sons-in-law.

Division Heads or designee(s) shall adhere to the following hiring guidelines in addition to applicable Agency, state, and federal rules governing employment law:

(1) **Interviews** -Agency policy strongly encourages the use of interviews as a part of the selection process for original appointments. Properly structured interviews helps meet or exceed guidelines for equal employment opportunities and non-discriminatory hiring and promotion practices. Interviews should include job related questions that are derived from the knowledge, skills, and abilities required to perform the job. Candidates should not be asked questions that do not pertain to the position for which the candidate is being interviewed. All applicants should be asked the same basic set of questions for a particular job. A diverse panel of interviewers is preferable.

(2) **Application Review** - Work history information should be elicited for each candidate during the job interview by referencing the Application for Examination provided by the State Personnel Department. Special attention should be paid to education, job related experience, references, previous employment dates, etc. Hiring supervisors should verify an applicant's work history by contacting previous employers. If certain training, certification, or education is required, verify that the college/university is an accredited institution and that the selected candidate has actually completed the educational requirement(s).

(3) **Selective Service Registration** - As required by Legislative Act 91-584, persons who are required to register with the Selective Service System cannot be offered employment with the State of Alabama or be promoted or reallocated to a higher classification without proof of such registration. Men born in 1960 or later and who are age 18 through 35 are required to register. Each eligible male shall complete a Selective Service Board Certification Form ([Exhibit 4-5D](#)). ABC Personnel Division staff will verify a candidate's registration claim using the Selective Service System's online web verification system ([Selective Service Online Registration Verification](#)).

(4) **Criminal History Verification** - Before an actual offer of employment is made, a background check is to be completed to determine if the preferred candidate(s) has a criminal history. This background check is conducted by authorized Agency staff and must be authorized by the candidate through the completion of an Investigation Consent Form ([Exhibit 4-5E](#)). This consent allows the Agency to verify that all statements on or attached to a request for employment are true and accurate. If any statements are found to be false, or omitted altogether, the candidate

may be eliminated from the hiring process or, if already a Merit System Employee, released from State service altogether at the discretion of the Administrator.

(5) Pre-Employment Controlled Substance Screen - All offers of employment must be made in compliance with [Drug-Free Workplace Policy](#). Employment offers are conditionally hinged upon the negative results of toxicological tests that determine the illegal use or abuse of controlled substances and/or alcohol.

(6) Records Management - Supervisors shall maintain sufficient records to document the process for each appointment to include notes, rating sheets, and other results of each interview. Refer to the appropriate records disposition schedule to determine timeframe limitations.

(7) New Hire Paperwork - Supervisors shall have appointees complete applicable new hire paperwork in an accurate and timely manner (see [Employee Portal](#) section on Agency website). Delays and/or errors in completing paperwork could jeopardize the new employee's job status and/or benefits.

(8) Employment Eligibility Verification/E-Verify - In accordance with the federal Immigration Reform and Control Act (IRCA) of 1986 and the Alabama Taxpayer and Citizen Protection Act (Act 2011-535), the Agency is only authorized to hire citizens and nationals of the United States and aliens authorized to work in the United States. The Agency is statutorily obligated to use the Employment Eligibility Form (Form I-9), in conjunction with the US Department of Homeland Security's E-Verify internet-based system. The most current version of the Form I-9 can be accessed using the [US Department of Homeland Security website](#).

The Form I-9 is included in the packets issued to new appointees upon being offered or beginning employment. The hiring supervisor is responsible for having a new employee complete Section 1 of the Form I-9 within the first three (3) work days of beginning employment. Employees must be allowed to read the instructions for Section 1 prior to completion. The Agency is prohibited from specifying which document(s) the new employee is to provide. New employees must present original, unaltered documents as copies of documents, metal social security cards, and/or laminated social security cards are not acceptable.

The ABC Personnel Division is statutorily obligated to use the E-Verify System to verify an employee's employment eligibility during his/her first three (3) days of work. Thus, hiring supervisors must ensure that the Form I-9 and associated documentation is received by ABC Personnel within the three (3) day period.

Records for employment eligibility will be retained by the ABC Personnel Division in a secure location for three (3) years after the date of hire or one (1) year after the date employment ends, whichever is later.

Failure to comply with the provisions of the IRCA may result in penalties under the law and disciplinary action against the Agency.

ABC-4-5-.05 BEGINNING EMPLOYMENT

(1) **Probationary Period** - Employees appointed to a position from a promotional or open-competitive register will be required to complete a probationary period (also referred to as a working test period). Probationary periods generally last six (6) months but cannot last longer than twelve (12) months. Employees who transfer from one position to another in the same classification are not required to serve a probationary period if they have permanent status in their classification.

During the probationary period, the employee must reach the satisfactory or fully competent level of performance in work habits and responsibilities/results for the assigned position (described on the [Pre-Appraisal](#) Form). Unsatisfactory work habits and/or performance could result in the employee being terminated from employment (new employees of the Agency); reverted back to the previous classification in which s/he held status (promotions within the Agency); or an extension of his/her probationary period.

(2) **Orientation** - An orientation program is an effective way to introduce new employees to the Agency, promote positive attitudes, and provide information on policies, procedures, practices, and benefits. The ABC Personnel Division is tasked with coordinating with Agency employees to ensure new employees complete a new employee orientation program.

ALABAMA ABC BOARD PERSONNEL POLICIES AND PROCEDURES

ABC Exhibit 4-5A

Form 11 Revised 7/08

Submit in Duplicate

STATE OF ALABAMA PERSONNEL DEPARTMENT
RECOMMENDATION FOR PERSONNEL ACTION

1. Name of Employee		2. Social Security Number		3. Salary	
First	MI	Last			
4. Position Number		5. Class Title/Code ()		6. Class Option Title/Code ()	
7. Department/Code Alabama ABC Board (002)		8. Division/Code ()		9. Effective Date	
INSTRUCTIONS			KIND OF ACTION		
<p>Item 11 requires signature of both department heads.</p> <p>Items 11, 13, 14, 15, 21 require approval of Personnel Director before action is official.</p> <p>Items 12, 13, 14, 15 must have copy of letter to employee attached. If voluntary demotion, letter from employee should be attached.</p> <p>Item 17 should have copy of letter of resignation or confirmatory letter from department attached.</p>			<p>10. Transfer within department <input type="checkbox"/></p> <p>11. Transfer to another department <input type="checkbox"/></p> <p>12. Suspension <input type="checkbox"/></p> <p>13. Demotion <input type="checkbox"/></p> <p>14. Layoff <input type="checkbox"/></p> <p>15. Dismissal <input type="checkbox"/></p> <p>16. Separation by death <input type="checkbox"/></p> <p>17. Resignation <input type="checkbox"/></p> <p>18. Retirement <input type="checkbox"/> Disability <input type="checkbox"/> Service <input type="checkbox"/></p> <p>19. Expiration of temporary appointment <input type="checkbox"/></p> <p>20. Expiration of provisional appointment <input type="checkbox"/></p> <p>21. Leave Without Pay <input type="checkbox"/></p> <p>22. Returned from LWOP <input type="checkbox"/></p> <p>23. Military Leave Without Pay <input type="checkbox"/></p> <p>24. Returned from Military LWOP <input type="checkbox"/></p> <p>25. Other <input type="checkbox"/></p>		
ITEMS AFFECTED BY ACTION		FROM:		TO:	
26. Department/Code (Items 10 and 11)		()		()	
27. Division/Code (Items 10 and 11)		()		()	
28. County of Employment Code (Items 10 and 11)		()		()	
29. Class Title/Code (Items 10, 11, 13)		()		()	
30. Class Option/Code (Items 10, 11, 13)		()		()	
31. Dates (Items 12, 21, 22, 23 and 24)					
32. Salary (Item 13)					
33. Position Number (Items 10, 11 and 13)					
34. If action is item 13, 15, 17 or 18, is reemployment recommended? (Y/N)		(If *No?, explanation must be given.)			
35. Remarks					
36. Signed (Appointing Authority)				Date	
37. Signed (Appointing Authority)				Date	
38. Approved (Personnel Director)				Date	

EXHIBIT
For use by ABC Personnel only

ALABAMA ABC BOARD PERSONNEL POLICIES AND PROCEDURES

ABC Exhibit 4-5B

Form 8 - Revised September 2008

STATE OF ALABAMA - PERSONNEL DEPARTMENT
NOTICE OF APPOINTMENT TO LABOR POSITION

Submit in Duplicate

Social Security Number _____				Position No _____	
Full Name _____ First Middle Last				Location of Position _____	
Address _____ House or Apt. No. Street				Department _____	
City County State Zip Code				Division _____	
Legal Residence _____ County State				County _____	
Date of Birth: Mon Day Year Sex (Check one) 1. <input type="checkbox"/> Male 2. <input type="checkbox"/> Female				Class Title _____	
Race (Check one) 1. <input type="checkbox"/> White 2. <input type="checkbox"/> Black 3. <input type="checkbox"/> Hispanic 4. <input type="checkbox"/> Asian or Pacific Islander 5. <input type="checkbox"/> American Indian or Alaskan Native 6. <input type="checkbox"/> Other				Class Code _____	
Check Highest Grade Completed <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6 <input type="checkbox"/> 7 <input type="checkbox"/> 8 <input type="checkbox"/> 9 <input type="checkbox"/> 10 <input type="checkbox"/> 11 <input type="checkbox"/> 12				Pay Rate _____	
Kind of Action: <input type="checkbox"/> *** Initial Employment *** <input type="checkbox"/> Renewal <input type="checkbox"/> Change of Pay <input type="checkbox"/> Change in Job Title <input type="checkbox"/> Change in % Worked From _____ To _____				Effective Date _____	
Employment Type: <input type="checkbox"/> 1. Full-time <input type="checkbox"/> 2. Temporary (104 work days or less) <input type="checkbox"/> 3. Part-time <input type="checkbox"/> 4. Part-time temporary					

Describe duties to be performed in detail (Use the back of the form if necessary)

Signed _____ Date _____
Name of Supervisor

Signed _____ Date _____
Appointing Authority

Approved _____ Date _____
Personnel Director

*** IMPORTANT ***

You MUST attach an application for the initial appointment.

EXHIBIT
For use by ABC Personnel only

ABC Exhibit 4-5C

Form 5 - 01/97

**DEPARTMENTAL APPOINTMENT NOTIFICATION
STATE OF ALABAMA
PERSONNEL DEPARTMENT**

1. Full Name of Appointee		2. Social Security Number				
3. Agency/Code		4. Organization/Code				
5. Class Title/Code		6. Class Option Title/Code				
7. Position No.		8. County of Employment/Code				
9. Salary Rate	Grade	Step	10. Effective Date			
11. Employment Type: 1. () Permanent Full-time 2. () Temporary Full-time 3. () Part-Time Permanent 4. () Part-Time Temporary 5. () Conditional 6. () Limited Tenure If part-time, indicate percentage of time worked						
12. Shift Work 1. () First Shift 2. () 2nd Shift 3. () 3rd Shift						
13. Date Position Vacated		14. Sex/Code	15. Race/Code			
16. Did any veterans apply for this position? () Yes () No If yes and a veteran was not selected, give the reason(s) below or on an attached sheet.						
17. Certificate of Appointing Authority: I certify that to the best of my knowledge and belief the proposed appointee is fully qualified to perform the duties of this position. Signed _____ Date _____ Appointing Authority						
18. Approved: Signed _____ Date _____ Personnel Director						
ACTION/REASON	EEO FLAG	EMPLOYMENT TYPE	PAY CLASS	DIFFERENTIAL STEP	ANNUAL RAISE DATE	PROB END DATE
IMPORTANT Submit this form BEFORE the appointee begins work. Applications must be attached to this form.						

EXHIBIT
For use by ABC Personnel only

ABC Exhibit 4-5D



Selective Service Board Certification

Date: _____

Name: _____

Home Address: _____

City: _____ State: _____ Zip: _____

I certify that I comply with the provisions of the United States Military Selective Service Act (50 U.S.C. App. 453) by having registered with the Selective Service Board or that I am not yet 18 years of age and I will register when required or that I am not required by law to register.

Social Security Number: _____ - _____ - _____

Date of Birth: _____

Signature: _____ Date: _____

Witness: _____ Date: _____

NOTE: This certification is required by State of Alabama Legislative Act 91-584.



ABC Exhibit 4-5E

Investigation Consent Form

I understand and acknowledge that an investigative consumer report may be obtained for employment purposes. I authorize the Alabama ABC Board, or its designated agent, to conduct pre-employment or other employment related inquiries after I am hired (to the extent allowed by law) and authorize any past or present employer, or other business, governmental agency or individual contacted to supply the requested information and documents concerning me and to provide full and complete disclosure. I understand that all pre-employment screening activities are conducted in compliance with ADA, EEOC and the Fair Credit Reporting Act requirements. I release from liability the Alabama ABC Board and its representatives for gathering and using such information. I fully release the person or entity providing the information of any right or claim of confidentiality concerning disclosure of the information requested below or any and all claims, actions, or causes of action which may arise as a consequence of the release of such information as may be requested concerning: (1) Complete background reference and work history checks; (2) Criminal and civil litigation history information or any other public records (such as driving records, liens, judgments, and sex offender status); (3) Credit reports, academic achievement, professional licensure, bankruptcy filings; (4) Previous incidents of alleged sexual or racial harassment; (5) Previous incidents of violent behavior and/or suspected dishonest acts; (6) Results of previous drug testing within the past two years if positive for illegal substances; (7) Eligibility for rehire and circumstances of previous separations from employment; (8) Social Security Number verification; and (9) information concerning any or all worker's compensation claims if a conditional offer of employment has been made. I request that any law enforcement agency, institution, information service bureau, school, employer, reference, or insurance company contacted pursuant to this investigation consent form cooperate fully and completely in responding to the inquiries.

Applicant Signature: _____ Date: _____

APPLICANT INFORMATION:			
Last Name	First Name	Middle Initial	Maiden Name
Home Address	City	State	Zip Code
Former Address	City	State	Zip Code
Social Security Number	Date of Birth	Driver License Issued	State License Issued

Division Head/Agent Supervisor: _____ Date: _____

ABC Personnel Office Use Only

Date Received: _____

Date Report Requested: _____

Criminal Background Check Results: Record No Record

If there is a record, was information disclosed on the application? Yes No

Drug Screening Results: Positive Negative

Notes:

EXHIBIT ONLY

Authorized forms are published on Agency website

CHAPTER ABC-4-6

HOURS OF WORK

- ABC-4-6-.01 [REGULAR WORKWEEK](#)
- ABC-4-6-.02 [FLEXIBLE WORKING HOURS](#)
- ABC-4-6-.03 [REDUCED WORK SCHEDULE](#)
- ABC-4-6-.04 [MEAL AND REST PERIOD POLICIES](#)
- ABC-4-6-.05 [INCLEMENT WEATHER/EMERGENCY CONDITIONS POLICY](#)
- ABC-4-6-.06 [OVERTIME COMPENSATION](#)
- ABC-4-6-.07 [ATTENDANCE RECORDS](#)

ABC-4-6-.01 REGULAR WORKWEEK

The Fair Labor Standards Act (FLSA) defines a workweek as a regular recurring period of 168 hours in the form of seven (7) consecutive 24 -hour periods. The Agency workweek, also referred to as an FLSA cycle, begins at 12:01 a.m. Saturday and ends at midnight on Friday. The Rules of the State Personnel Board specify that a five (5) day, 40 hour workweek shall be used for the purposes of calculating the pay of employees paid on a semi-monthly basis. Employees shall have two (2) regularly scheduled off-days each workweek, with occasional changes if required due to work requirements. Situations requiring an employee to work alternative schedules or work more than 40 hours during a workweek require prior authorization from the Division Head or his/her designee.

All Agency employees are required to observe attendance rules regarding hours of work, holidays, and annual, sick, military, and special leaves of absence with or without pay. An employee is in “pay status” when actually working or when on authorized paid leave.

ABC-4-6-.02 FLEXIBLE WORKING HOURS

The Agency allows the use of flexible work schedules (“flextime”) in an attempt to improve morale, maintain or increase productivity, retain employees, and/or to decrease tardiness and short-term absences. Flextime allows employee input into their work schedules to better control their work/life relationship. The use of flextime is not available in all work locations and is dependent upon an employee’s job requirements. Flextime must not interfere with the Agency’s ability to respond to citizens or provide public services. Further, flextime is a privilege and not a right to be demanded by an employee because other Agency employees are authorized flextime.

There are no set standards for flextime schedules as they are determined by each employee’s job requirements. Typical flextime schedules allowed by the Agency include 1) 7:30 a.m. to 4:30 p.m. Monday through Friday; 2) 8:30 a.m. to 5:30 p.m. Monday through Friday; or 3) four (4) 10-hour work days. Employees must have written approval by his/her Division Head prior to the use of flextime. Every Division Head is responsible for ensuring his/her division is adequately staffed at all times ensuring coverage for core business operating hours.

Employees working a compressed schedule that consists of four (4) ten 10-hour work days within the FLSA work week have the following stipulations (ordered through the State Personnel Director):

- Three-month mandatory period to work the compressed schedule unless changed by the Agency. Employees have no entitlement to a particular work schedule or hours of work.
- Leave accruals are the same as employees working a regular work schedule.
- Leave usages for a day not worked will be 10 hours: annual, sick, LWOP, military, personal leave day, suspensions, etc.
- The personal leave day is accrued based on an employee's work schedule on January 1 of each year meaning that employees who have not taken their personal leave day prior to changing to a 10-hour work day will need to take an additional two (2) hours of annual leave to take an entire day off of work.
- Compensatory time/overtime is calculated after 40 hours are reached in an FLSA workweek, Saturday through Friday.
- The number of hours granted for a holiday is based on the employee's regularly scheduled work hours for that day (i.e., 10 hours of holiday time for an employee working a 10-hour day). If the holiday is worked or is a scheduled off day, 10 hours holiday time should be accrued.

ABC-4-6-.03 REDUCED WORK SCHEDULE

In an attempt to retain valuable expertise that might otherwise be lost, the Agency will consider offering employees the ability to work a reduced work schedule of 75%, 50%, and 25%. No employee has a right to be placed on a reduced work schedule and the Agency reserves the right to return the employee to a full work schedule after one (1) week's notice. All requests for a reduced work schedule must be made in writing and approved by the requesting employee's Division Head. Thereafter, the request should be submitted to the ABC Personnel Director for review. The Administrator will make the final decision on all reduced schedule requests.

All reduced work schedule decisions will be made on a case-by-case basis and will primarily consider the needs and best interests of the Agency. An employee making such a request should be aware that s/he could be physically transferred to another work location where the reduced work schedule can best be accommodated.

If an employee is approved for a reduced work schedule, all employment items will be proportionately adjusted to include salary, benefits, retirement, leave accruals, service time, etc. For instance, an employee working a seventy-five percent work schedule will be paid seventy-five percent of his/her salary rate, leave, and service credit. Also, for health insurance premiums, the Agency would only pay seventy-five percent of the employee's health insurance premium with the employee being responsible for the remaining twenty-five percent plus the usual employee and applicable dependent care coverage premiums.

ABC-4-6-.04 MEAL AND REST PERIOD POLICIES

It is the policy of the Agency to comply with State and federal laws regarding meals and breaks. The responsibility for determining rest and meal periods for Agency employees is left up to each

Division Head or his/her designee(s) in accordance with the requirement to maintain efficient operations.

(1) Rest Period - Neither federal nor State law requires that the Agency provide employees with a rest period; however, management realizes the benefit of allowing employees the opportunity to take short rest periods during the work day. Accordingly, full-time FLSA non-exempt employees are allowed a rest period not to exceed fifteen (15) minutes for each four (4)-hour work period. Rest periods cannot be used at the beginning or end of a work day to offset arrival and departure times. Supervisors are given discretion to schedule rest periods as work permits. Employees who work through their rest periods (voluntarily or involuntarily) will not be permitted additional compensation.

Smokers who desire to smoke during their scheduled work hours are to do so during their authorized rest period. Smoking may only be permitted in compliance with Agency procedures regarding the use of tobacco products on Agency property.

(2) Meal Period - Agency employees are allowed a bona fide meal period during a work day where s/he is completely relieved from duty while eating a meal. An employee is not relieved if s/he is required to perform any duties, whether active or inactive, while eating. For example, an office employee who is required to eat at his desk or a sales associate who is required to complete or assist in sales transactions is working while eating. Ordinarily, thirty (30) minutes is adequate for a bona fide meal period although Agency employees typically observe a one (1) hour meal period.

If an employee chooses to skip a meal period, the employee cannot make the time up at the end of a shift or move the time to a day later in the workweek. Additional time worked by skipping a meal period shall not result in the accrual of compensatory time unless previously approved by an authorized Agency supervisor. A Division Head or his/her designee(s) is responsible for ensuring compliance with associated state and federal laws which requires equitable and consistent implementation across all employment groups.

ABC-4-6-.05 INCLEMENT WEATHER/EMERGENCY CONDITIONS POLICY

The Agency has a responsibility to make every effort to maintain normal work hours even during inclement weather/emergency conditions. However, there are situations (freezing rain, ice, snow, storms, floods, etc.) where the health or safety of citizens, customers, or employees would be placed at risk requiring Emergency Closure of the entire Agency or a subsection thereof. The Governor of the State of Alabama shall make decisions regarding the conditions affecting the Emergency Closure of all agencies statewide or within a geographic region. Such decisions are typically announced through electronic communication methods (e.g., email, text message) or major media outlets.

Decisions regarding conditions affecting the Agency itself shall be made at the discretion of the Administrator. In these situations, the Administrator will establish criteria and procedures for the Emergency Closure of the ABC Central Office while the ABC Enforcement Chief and ABC Product/Stores General Manager will coordinate law enforcement activities and product/store operations, respectively. Decisions to allow staff members to leave work early in a developing severe weather or other situation will be the responsibility of the Administrator. Time lost from

work in such an event will be in accordance with FLSA regulations and will possibly require the use of accrued leave, unless the hours affected fall in a period which is subsequently declared an Emergency Closure.

The following standards apply during inclement weather/emergency conditions:

- Absences of employees assigned to work locations where an official Emergency Closure announcement is made shall not require the use of accrued leave.
- Compensatory or other time off shall not be given to employees who report to work when others do not.
- Leave status already in effect upon an official closure announcement shall not be modified.
- Temporary/part-time employees are paid only for time worked or if normally scheduled to work during an Emergency Closure and only for the time scheduled to work.
- Standard policies governing attendance and pay will be in effect for tardiness and/or absenteeism due to weather or other conditions during any period not declared an Emergency Closure. Absences due to an employee's personal circumstances require the use of accrued leave or, should paid leave be unavailable, leave without pay. Sick leave cannot be used to account for such scenarios. Supervisors may require employees to provide verifying information to justify such absences.
- Employees are required to make every reasonable effort to report for work as scheduled if operations are being maintained at the employee's work location. If reasonable attempts to report to work fail, the employee shall contact his/her supervisor prior to the start of the work day to explain the circumstances preventing them from working. Failure to provide timely notification and/or documentation supporting an absence could result in an unexcused absence and/or disciplinary action.
- Employees who are not directly affected by the conditions warranting Emergency Closure, or who are not scheduled to work during such times, shall not accrue any right to, and shall not be compensated in any manner for, any absence that may be authorized for the employees directly affected.

Note: This policy only applies to an employee's principal place of residence. An employee who is not at his/her principal place of residence (e.g., beach, lake house, vacation) and is unable to report to scheduled duty due to any of the above conditions shall use accrued leave to cover his/her absence from work. Supervisors may require employees to provide verifying information to justify such absences.

ABC 4-6-.06 OVERTIME COMPENSATION

(1) It is the policy of the Agency that FLSA non-exempt employees shall not be permitted or required to work overtime except when clearly justified and when approved in advance by the appropriate Division Head. Division Heads will establish procedures to control the approval of overtime. Supervisors will ensure compliance with this policy.

(2) Workday schedules should be adjusted to preclude more than 40 hours of work in the workweek. An employee who refuses to work beyond the scheduled work period, without good cause, after instructed to do so by the appropriate supervisor, may be disciplined for insubordination.

(3) The FLSA requires that non-exempt employees who physically work over 40 hours in a work week must be compensated at one and one-half times the regular rate. The State Personnel Board has established policy to use compensatory time, rather than wages, to compensate non-exempt employees for performing overtime work, other than exceptions approved by the State Personnel Board or as provided by statute. New employees shall sign a "Compensatory Time Agreement" as a condition of employment ([Exhibit 4-6](#)).

(4) Hours worked by non-exempt employees, as defined by the FLSA, "Includes all time that an employee is required to be on duty, or on the employer's premises, or at a prescribed workplace for the employer, and all time during which the employee is suffered or permitted to work for the employer. It includes any work which the employee performs on or away from the premises, if the employer knows or has reason to believe that the work is being performed."

(5) Prior to August 1st, employees are required to use compensatory time before banked holiday or annual leave. After August 1st, employees in jeopardy of losing annual leave at the end of the calendar year can use excess annual leave prior to the use of compensatory time.

(6) If a non-exempt employee has unused compensatory time upon separation from the Agency (resignation, termination, retirement, transfer/appointment to another State agency), payment will be made in conjunction with departure.

(7) [The Code of Alabama, 1975, Section 36-21-4](#) provides that state law enforcement officers who are assigned to work more than 40 hours during the work week shall be compensated at time and one-half for excess hours worked. The decision of whether to accept overtime pay or compensatory time shall be at the sole option of the officer for the first eight (8) overtime hours worked. All hours worked over 48 shall be compensated at time and one-half compensatory time or pay based on funding sources and/or availability. Accumulated compensatory time shall be used or paid as indicated in sections (5) and (6) above.

ABC 4-6-.07 ATTENDANCE RECORDS

The preparation of accurate and complete attendance records is an absolute necessity to satisfy requirements of the FLSA and to justify the expenditure of State funds for wages. All individuals having responsibility for the documentation process are required to attest that records are accurate and valid through an acceptable verification format.

Exhibit 4-6



State of Alabama Compensatory Time Agreement

I, the undersigned, accept as a condition of employment that any overtime hours worked (hours worked in excess of 40 per work week) may be compensated for through the use of compensatory time off in lieu of monetary payment. I understand that such decisions will be consistent with applicable laws and regulations and will govern only those employees ruled eligible for overtime compensation.

Employee's Signature

Dated Signed

EXHIBIT ONLY

Form included in Employee New Hire Packet

CHAPTER ABC-4-7

PERFORMANCE APPRAISAL

ABC-4-7-.01	<u>PURPOSE</u>
ABC-4-7-.02	<u>APPRAISAL PROCESS</u>
ABC-4-7-.03	<u>PROBATIONARY APPRAISAL</u>
ABC-4-7-.04	<u>ANNUAL APPRAISAL</u>
ABC-4-7-.05	<u>RATING SYSTEM</u>
ABC-4-7-.06	<u>RESPONSIBILITY</u>
ABC-4-7-.07	<u>JUSTIFICATION FOR RATINGS</u>
ABC-4-7-.08	<u>PARTIAL APPRAISALS</u>
ABC-4-7-.09	<u>CHANGES TO APPRAISALS</u>

ABC-4-7-.01 PURPOSE

The ABC Board has adopted the State of Alabama's Performance Appraisal System as a tool that continuously manages and evaluates an employee's work conduct and job performance. The basis of the appraisal system is responsibilities and results. Responsibilities are the essential job functions and important activities of the position while results are the expected level of fully competent performance of each responsibility. The process of thoroughly defining the responsibilities and results of a position, communicating responsibilities and expectations to the employee, and continuously monitoring employee performance and providing feedback offers a successful appraisal formula.

Performance Appraisal is not a disciplinary tool but rather a reflection of an employee's performance during a specified review period. However, the Performance Appraisal will reflect whether or not an employee's job performance and/or work habits were deficient during a review period.

ABC-4-7-.02 APPRAISAL PROCESS

The appraisal period for both probationary and permanent employees consists of three (3) distinct phases - Preappraisal, Midappraisal, and the Final Appraisal. Appraisals for probationary employees typically cover a six (6) month period while appraisals for permanent employees cover a twelve (12) month period. An employee's immediate supervisor is the "Rating Supervisor" and is responsible for the accurate and timely completion of all appraisal forms.

The Rating Supervisor must be in a higher classification than the employee being evaluated unless the State Personnel Director authorizes an exemption under special circumstances (e.g., Administrator supervises an employee in a higher classification but within a different classification series).

(1) **Preappraisal** -An Employee Performance Preappraisal (Form 13P) ([Exhibit 4-7A](#)) must be completed and discussed with probationary and permanent employees at the beginning of the employee's appraisal cycle in a formal meeting. Supervisory staff uses the Preappraisal to clearly

define the responsibilities and expected work habits for a specific position. Whenever feasible, at least four (4) responsibilities and associated results should be included on a Preappraisal.

A Preappraisal session is a two-way discussion between the Rating Supervisor and the employee. This session is an ideal time for the employee to have questions answered that specifically or generally pertain to the appraisal process. Supervisors should be prepared to answer questions and be able to provide one (1) or two (2) examples of how an employee can exceed performance of the defined responsibilities.

The employee should receive a copy of the Preappraisal at the conclusion of the meeting. The Rating Supervisor keeps the original copy of the Preappraisal until the Midappraisal has been completed.

Significant changes in the responsibilities and results during the appraisal period must be documented on the Preappraisal by the Rating Supervisor and shared with the employee. To signify notification, the employee and Rating Supervisor must initial and date each modification.

(2) Midappraisal - A Midappraisal must be conducted for all probationary and permanent employees at the midpoint of the appraisal period. This is a sit-down session where the Rating Supervisor notifies the employee whether his/her performance and conduct has fallen below, met, or exceeded defined expectations. This content relayed during this meeting is documented through utilization of the Form 13P under the Midappraisal Section (page 2 or the back side of the Form 13P). The employee and the Rating Supervisor are required to sign the form to document the meeting occurred. The completed form should be sent to ABC Personnel with the employee, Rating Supervisor, and the Reviewing Supervisor receiving a copy (electronic copies are sufficient).

(3) Final Appraisal - The Final Appraisal is considered the end of the appraisal process. At this point the Rating Supervisor reviews, evaluates, and documents the performance of the employee during the appraisal period. The Employee Probationary Performance Appraisal (Form 13F) and Employee Performance Appraisal (Form 13) are used to document performance during the working test (probationary) and annual appraisal periods, respectively.

When completing a Final Appraisal, the Rater should consider the employee's work habits, job performance, and, if applicable, any corrective action measures administered during the review period. Raters may also want to seek input from others. It is important to review information included on the Form 13P. Raters should compare the employee's actual performance level to what was defined as "meet standards" performance on the Preappraisal. Raters should have the appraisal reviewed by the Reviewer prior to meeting with employee.

The supervisor should carefully plan and conduct the Final Appraisal session with the employee in a formal "sit-down" session. The supervisor should be ready to respond to any questions regarding the reasons for the ratings. For areas in which the employee struggles with compliance or has deficiencies, the supervisor may want to develop an action plan that identifies the needed changes in behavior; explains the expected results or work conduct; signifies the timeframe in which the behavior will be monitored more closely; schedules a follow-up session to discuss progress; and indicates the type and level of assistance that will be provided by the supervisor or agency (e.g., training programs or closer supervision).

Once the Final Appraisal session has been completed and the employee, Rating Supervisor, and Reviewing Supervisor have provided their signatures, the Form 13, or Form 13F, should be sent to ABC Personnel with the employee, Rating Supervisor, and the Reviewing Supervisor being copied. Final Appraisals must be turned in within the designated timeframe or the employee will not be included on the annual raise list and will not receive their annual raise, if applicable, for the appropriate pay period.

ABC-4-7-.03 PROBATIONARY APPRAISAL

The Employee Performance Probationary Appraisal (Form 13F) ([Exhibit 4-7B](#)) serves to document performance during the working test (probationary) period. This documentation is used to determine whether or not the performance of the employee warrants permanent status within the State Merit System. All employees in classified service are required to successfully complete a probationary period before receiving permanent status according to Merit System Law. The working test period for employees appointed from open-competitive or promotional certifications within the ABC Board is a minimum of six (6) months and cannot exceed twelve (12) months. Employees appointed from a reemployment certification typically serve a three (3) month probationary period.

A Preappraisal and Midappraisal session must be completed during the probationary period within the designated timeframes. At the end of the probationary period the supervisor will complete a Form 13F to document employee performance. The performance ratings should complement the recommendation of the supervisor to make the employee permanent, continue the employee on probation, or terminate the employee. The Form 13F is prepared in the last month of the employee's probationary period and returned to ABC Personnel by the specified due date. The completed Form 13F must be received by the State Personnel Department no later than ten (10) calendar days before the end of the probationary period.

(1) Completion of Probation (Regular Appointments) - Upon the satisfactory completion of a working probation period and a recommendation by the appointing authority, an employee in a regular appointment shall be given permanent status in the classification to which s/he was appointed. Subject to the availability of funds, such employee may be granted a performance salary increase effective at the beginning of the first semi-monthly pay period after completion of probation. The salary increase shall be one (1) or two (2) steps, depending on the performance of the employee during probation and in conjunction with the recommendations and ratings of management. The month in which the salary increase is effective then becomes the anniversary month for any future salary increases.

(2) Extension of Probation - An employee whose Form 13F rating does not "meet standards" OR an employee that meets standards but has extenuating circumstances that are appropriately defined, may have their probationary period extended. Usually, an extension is for a three (3) month period but can last up to six (6) months. An employee may not serve in probationary status longer than a calendar year (one (1) six-month Probationary Period and two (2) three-month extensions). The extension must be recommended by a Division Head and submitted through the ABC Personnel Director to the Administrator for approval.

(3) Removal/Termination During Probation - An employee may be separated from State service during probation for being unable or unwilling to successfully perform his/her job responsibilities or for any other reason the employee is found to be unsuitable for continued employment. This action must be recommended and documented by a Division Head and submitted through the ABC Personnel Director to the Administrator for approval. The employee will receive written notification from the Administrator of such removal.

ABC-4-7-.04 ANNUAL APPRAISAL

The Employee Performance Appraisal (Form 13) ([Exhibit 4-7C](#)) is used for the final annual evaluation of the employee’s job performance and work habits. As is the case with the Probationary Appraisal, a PreAppraisal and Midappraisal must be completed by the supervisor during the review period. The Form 13 is completed towards the end of the review period.

Section 36-26-27.1 of the Code of Alabama requires employees to have had prior knowledge of any documentation used in the disciplinary process. For this reason, it is imperative that the employee sign the Form 13. As noted on the form, this signature does not denote agreement, but merely acknowledgement that the form has been discussed with the employee. Should an employee refuse to sign, the supervisor should issue a direct order to do so with the clear understanding by the employee that disciplinary action up to and including termination will occur if the direct order is not obeyed.

The Form 13 and associated documentation should be sent to ABC Personnel with the employee, Rating Supervisor, and Reviewing Supervisor being copied. Copies of documents pertaining to disciplinary actions must also have been furnished to the employee within ten (10) days of the document being placed in an employee’s personnel file. Any justification for ratings, according to State Personnel and departmental procedures, are to be followed (procedures are outlined in [ABC-4-7-.07 Justification for Ratings](#)).

Performance raises are given only when the Administrator certifies that the employee has earned a raise by the level of performance of his/her work. Each employee, who is not at the maximum of the salary range, may be considered for a performance salary increase once each year. In no case can step raises exceed the maximum rate in a salary range. Progress within a salary range is determined by the employee’s performance evaluation. Employee evaluations are related to performance raises according to the following schedule:

Service Rating	Number of Steps
Does Not Meet Standards	0
Partially Meets Standards	0
Meets Standards	1
Exceeds Standards	2
Consistently Exceeds Standards	2

ABC-4-7-.05 RATING SYSTEM

In 1977, the State Personnel Board addressed two (2) growing concerns: (1) the appraisal system should be based upon honest/accurate evaluation of employee performance and inflation should be reduced, and; (2) employees should be tied to performance so that the truly top performers could be identified and rewarded with a pay increase.

Rating Categories - Ratings for each responsibility assigned to the employee ranges from 0 to 4. The level of performance expected of an employee to be considered fully competent is "meets standards"; which is the level of performance that reflects the full scope/depth of expectations for the position. The specific rating categories are as follows:

- **Does Not Meet Standards (rating of "0")** - the employee has serious performance deficiencies and has clearly failed to demonstrate the minimum level of performance expected for the position. Remedial training is required and, depending upon the success of retraining, administrative action (reclassification/demotion) or disciplinary action may be appropriate. A rating of "0" must be justified with appropriate documentation attached.
- **Partially Meets Standards (rating of "1")** - the employee has demonstrated limited capability but fails to achieve the full result expected for the responsibility. Remedial training is required. A rating of "1" must be justified with appropriate documentation attached.
- **Meets Standards (rating of "2")** - the employee has fully achieved the level of performance expected for each responsibility and is considered fully competent and is satisfying all expectations of him or her.
- **Exceeds Standards (rating of "3")** - the employee has frequently exceeded the expected results for a responsibility. Such performance is clearly above and beyond the expectations of the supervisor and has a significant and identifiable positive impact upon store/office/function operations.
- **Consistently Exceeds Standards (rating of "4")** - the employee has demonstrated consistent and significant performance evidenced by specific, uncommon achievements resulting in modification of operational procedures, identification of meaningful cost-saving proposals, etc.

ABC-4-7-.06 RESPONSIBILITY

(1) ABC Personnel Division

- Draft/coordinate/publish agency specific policies/and guidelines relative to the Employee Performance Appraisal process.
- Forward notifications to Agency representatives regarding appraisals due dates.
- Monitor appraisals for compliance with existing policy.

(2) Rating Supervisor

(a) Responsibilities

- Define and discuss employee responsibilities and expected results using the Form 13P.
- Constantly observe employee performance and document significant observations/ accomplishments/failures.
- Provide positive and negative aspects of an employee's job performance and work habits. Negative observations should be documented and discussed with the employee, possibly supplemented by Progressive Discipline.
- Complete the Midappraisal Section on the Preappraisal Form (Form 13P) and hold a formal meeting with the employee to discuss the content included on the form.
- Prepare the Probationary (Form 13F)/Annual Employee Performance Appraisal (Form 13) using information obtained through evaluation of employee performance and work habits during the review period.
- Discuss the proposed appraisal with the Reviewing Supervisor and consider any supervisory input before making final rating.
- Discuss the Final Appraisal with the employee in a private/formal setting. Rater should be prepared to discuss his/her rationale in arriving at the final ratings.
- Inform employee s/he may submit written comments if a disagreement is noted.
- When the appraisal form has been completed, the Rating Supervisor should forward the Employee Performance Appraisal and any attached documentation to the Reviewing Supervisor for signature. The Rater should then send the form and any documentation/ comments through the supervisory channels to the ABC Personnel Office.

(b) Considerations

- Appraising employee performance is a continuous process of daily observation, documentation, and conversation rather than an occasional process.
- Clearly and accurately defining the responsibilities and results for an employee's position are beneficial to the employee and the supervisor.
- Provide feedback to the employee, both positive and negative.
- Evaluate and rate the employee's performance for the entire review period accurately and objectively. Do not be influenced by one (1) or two (2) unusual incidents or based solely on the most recent performance.
- Documentation is an important part of the appraisal process. A supervisor must be able to substantiate ratings of employee performance on responsibilities and work habits.

(3) Reviewing Supervisor

- Review the appraisal and determine Rater's rationale for ratings and the quality of documentation supporting the ratings.

- Counsel Rater if ratings appear unfair or inadequately documented/justified. Add written comments to the appraisal if required to explain any disagreement with Rater or add to content of the appraisal.
- The Reviewing Supervisor must investigate any situation when an employee refuses to sign the form, or when rebuttal comments are attached. Problems should be addressed and attempts made to resolve the conflicts. When a Reviewing Supervisor investigates a situation, it is important to document the actions and discussions on a comment page and attach it to the form. The reviewer should then initial on the appropriate line denoting that comments are attached.

(4) Employee

- When an appraisal session is being conducted, the employee may ask for the Rater's rationale in making assessments, ask that any omitted accomplishment be taken into consideration, and/or ask the Rating Supervisor for guidance in improving ratings.
- The employee **must sign** and date the appraisal acknowledging that the report was **discussed** with the employee. Signature does not denote agreement, merely the fact that the appraisal was discussed. Refusal to sign can result in disciplinary action up to and including termination.
- If the employee disagrees with the appraisal, a rating, or a comment, the employee should advise the Rater of the disagreement and ask for reconsideration. If the Rater fails to change the rating/comment, the employee may submit written comments explaining such discontent to the Rater. Comments must be made within five (5) business days from the date the employee received a copy of the appraisal.
- If an employee files a rebuttal to the appraisal, the comment page will be attached to the appraisal form by the Rater, and the employee will initial and date the appropriate line in the signature section.

ABC 4-7-.07 JUSTIFICATION FOR RATINGS

The tendency of supervisors to inflate the performance ratings of subordinates is the greatest weakness of any evaluation system. In order to accurately identify the top performers in each classification, supervisor ratings must be honest and founded upon objective observations of an employee's performance. Those employees who demonstrate the truly exceptional performance will exhibit specific, identifiable, and/or uncommon achievements. These distinctive accomplishments serve as the means to justify a rating of "4 - Consistently Exceeds Standards." Employees who fail to "meet standards" likewise exhibit specific, identifiable deficiencies which require remedial attention.

Raters must provide written justification when a responsibility is rated a "0-Does Not Meet Standards" or "1-Partially Meets Standards." A rating of "0-Does Not Meet Standards" would suggest that administrative action occurred (i.e. involuntary demotion or disciplinary action). In these situations, a copy of a Counseling, Warning, and/or Reprimand will satisfy the written justification requirement.

Raters are also required to provide written justification for situations where an employee's overall performance evaluation score falls within the Consistently Exceeds Standards range.

ABC-4-7-.08 PARTIAL APPRAISALS

Situations arise where the employee or the Rating Supervisor relocate and the employee has been supervised by more than one (1) person during the rating period. It is very desirable for the new supervisor to receive ratings/feedback from the previous supervisor. A partial appraisal is a normal appraisal covering only part of the annual cycle. The current supervisor should consult with the previous supervisor to arrive at an appropriate rating. A partial appraisal for the period of three (3) to nine (9) months should be completed by the previous Rater, discussed with the employee, and left with the Reviewing Supervisor to give to the new Rater. The employee must acknowledge the appraisal discussion and may attach comments if s/he has disagrees or has concerns.

ABC-4-7-.09 CHANGES TO APPRAISALS

The Rater and Reviewer meet prior to the Performance Appraisal being administered to the employee to ensure accurate appraisals are issued using available information. There are times, however, where the employee is able to provide information to supervisory staff warranting a change to the appraisal. In this scenario, the Rater and Reviewer can submit a written request through their supervisory chain of command to the ABC Personnel Director that a change be made to an employee's appraisal. Only the rating officials may change ratings or comments and then only if the appraisal has not been made a matter of record at State Personnel.

ABC Exhibit 4-7A

Form 13P
Revised (01/2006)

EMPLOYEE PERFORMANCE PREAPPRAISAL
STATE OF ALABAMA
Personnel Department

Employee Name: _____ Social Security Number: XXX-XX- _____
Agency: 002/ALCOHOLIC BEVERAGE CONTROL BD Division: _____
Classification: _____ Class Code: _____
Period Covered From: _____ to: _____ Position Number: _____

RESPONSIBILITIES/RESULTS: Responsibilities and results on which an employee will be rated should be listed below. These factors should be discussed with the employee during the Preappraisal session at the beginning of each appraisal year. Please refer to the Performance Appraisal Manual for instruction on specifics of preparing, conducting, and completing the Preappraisal. Refer to the same manual for information concerning how to develop responsibilities and results.

EXHIBIT ONLY
Authorized forms are published on Agency website

WORK HABITS: Provide a check in the appropriate space to document that the policies and procedures concerning the following areas have been discussed with the employee. For instructions, refer to the Performance Appraisal Manual and policies of the agency.

- CHECK WHEN DISCUSSED:
- Attendance
 - Punctuality
 - Cooperation with Coworkers
 - Compliance with Rules

PREAPPRAISAL SIGNATURES: Signatures are mandatory.

Date the Preappraisal Session was held with the employee: _____

Employee Signature: (denotes discussion and receipt of form, not agreement): _____

Rater Signature: (denotes discussion and employee receipt of form) _____

Reviewer Signature: _____

EMPLOYEE PERFORMANCE MIDAPPRAISAL

Describe any employee's strength(s) in performing responsibilities and/or conducting work habits, as observed, during the first half of the appraisal period.

EXHIBIT ONLY

Describe any area(s) that the employee needs to improve in performance of responsibilities and/or work habits as observed, during the first half of the appraisal period. Document any actions taken or the corrective action plan that was developed to improve the areas of weakness. If a plan has not been developed, it is appropriate for the rater to consider developing a plan at this time.

State the areas where the employee has performed in a fully competent manner during the first half of the appraisal period. Documentation in this area means that the employee performed to the expected level of performance as discussed in the Preappraisal session. If there is no documentation in the first two areas, this section should be completed.

A Midappraisal session has been held on this date and performance has been discussed: _____

Employee Signature: _____ Initial if comments attached: _____

Rater Signature: _____ Initial if comments attached: _____

Reviewer Signature: _____ Initial if comments attached: _____

(Signatures denote that a Midappraisal session has been held between the supervisor and employee. Signatures are mandatory. Employee signature does not denote agreement but discussion of the form and rater comments. Comments may be attached. The person attaching comments must initial in the appropriate space.)

ABC Exhibit 4-7B

Form 13F
Revised (01/2006)

EMPLOYEE PERFORMANCE PROBATIONARY
STATE OF ALABAMA
Personnel Department

Employee Name: _____ Social Security Number: XXX-XX-_____
 Agency: 002/ALCOHOLIC BEVERAGE CONTROL BD Division: _____
 Classification: _____ Class Code: _____
 Period Covered From: _____ to: _____ Position #: _____

APPRAISAL SIGNATURES: Signatures are to be provided after the form has been completed. Signatures denote supervisor and employee discussion and receipt of form. Employee signature does not denote agreement. All signatures are mandatory.

Rating Supervisor	Employee	Reviewing Supervisor
SSN XXX-XX-_____		SSN XXX-XX-_____
_____ Rater Signature	_____ Employee Signature	_____ Reviewer Signature
_____ Rater Printed Name	_____ Date	_____ Reviewer Printed Name
_____ Date	_____ Initial if comment attached	_____ Date

It is recommended that the employee be:

- Continued in the probation (reason stated in Disciplinary Actions Area)
- Given permanent status in the position. Probationary increase to _____ Step _____ Effective _____
- Separated before or at the end of the probationary period (reason stated in Disciplinary Actions Area)

APPOINTING AUTHORITY Signature

PERFORMANCE APPRAISAL SCORE: Locate the Responsibility Score on the back of this form and write it in the appropriate space. Locate the Disciplinary Score on the back of this form and write it in the appropriate space. The Disciplinary Score is subtracted from the Responsibility Score to derive the Performance Appraisal Score. Documentation is to be maintained in the agency's personnel files if a "Does Not Meet" or "Consistently Exceeds" rating is given

_____	-	_____	=	_____
Responsibility Score		Disciplinary Score		Performance Appraisal Score

This employee's work:

- | | | | | |
|---|---|----------------------------------|------------------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Does Not Meet Standards
(6.6 or below) | Partially Meets Standards
(6.7 - 16.6) | Meets Standards
(16.7 - 26.6) | Exceeds Standards
(26.7 - 36.6) | Consistently Exceeds Standards
(36.7 - 40) |

WORK HABITS: Check the appropriate space for each Work Habit area. Work Habits pertain to conduct occurring in this Appraisal period. Provide an explanation below for marking any work habit as "Unsatisfactory." Attach additional sheets if necessary. No disciplinary action has to be taken to mark a Work Habit "Unsatisfactory."

	Unsatisfactory	Satisfactory
Attendance	_____	_____
Punctuality	_____	_____
Cooperation with Coworkers	_____	_____
Compliance with Rules	_____	_____

EXHIBIT ONLY
 Authorized forms are published on Agency website

RESPONSIBILITIES: List an abbreviated version of the employee's responsibilities below as documented on and discussed during the Preappraisal. Record the appropriate rating in the box for each responsibility. Rating(s) of appropriate responsibilities should reflect any disciplinary action(s) that has been taken during this appraisal period.

0	1	2	3	4
Does Not Meet Standards	Partially Meets Standards	Meets Standards	Exceeds Standards	Consistently Exceeds Standards

Responsibility	Rating
1. _____	<input type="text"/>
2. _____	<input type="text"/>
3. _____	<input type="text"/>
4. _____	<input type="text"/>
5. _____	<input type="text"/>
6. _____	<input type="text"/>
7. _____	<input type="text"/>
8. _____	<input type="text"/>
9. _____	<input type="text"/>
10. _____	<input type="text"/>

EXHIBIT ONLY

Authorized forms are published on Agency website

RESPONSIBILITY SCORE:

Number of Responsibilities Rated	=	Number of Responsibilities	=	Average Responsibility Rating	=	Responsibility Score
_____		_____		_____		_____

DISCIPLINARY ACTIONS: Any disciplinary action taken with the employee during this appraisal period is to be documented below. Provide the number of disciplinary actions and steps taken with the employee during the appraisal year. If no disciplinary action has been taken, a "0" should be marked in each block provided. Attach a copy of the warning(s), reprimand(s), suspension(s), or demotion(s) to the Appraisal.

Warning	Reprimand	Suspension
0	0	0

DISCIPLINARY SCORE: This section should include the use of the discipline steps of reprimand, suspension, and demotion only. The Disciplinary Score does not include scores for counseling and warnings. To calculate the Disciplinary Score, identify the most severe step of discipline taken with the employee during this appraisal period. If the most severe step was one or more reprimands, the Disciplinary Score will be 7. If the most severe step was one or more suspensions, the Disciplinary Score will be 17. Otherwise, the Disciplinary Score will be 0.

DISCIPLINARY SCORE: 0

ABC Exhibit 4-7C

Form 13
Revised (01/2006)

EMPLOYEE PERFORMANCE APPRAISAL
STATE OF ALABAMA
Personnel Department

Employee Name: _____ Social Security Number: XXX-XX- _____
 Agency: 002/ALCOHOLIC BEVERAGE CONTROL BD Division: _____
 Classification: _____ Class Code: _____ Position #: _____
 Period Covered From: _____ to: _____ Annual Raise Effective: _____

APPRAISAL SIGNATURES: Signatures are to be provided after the form has been completed. Signatures denote supervisor and employee discussion and receipt of form. Employee signature does not denote agreement. All signatures are mandatory.

Rating Supervisor	Employee	Reviewing Supervisor
SSN <u>XXX-XX-</u> _____		SSN <u>XXX-XX-</u> _____
_____ Rater Signature		_____ Reviewer Signature
_____ Rater Printed Name	_____ Employee Signature	_____ Reviewer Printed Name
_____ Date	_____ Date	_____ Date
_____ Initial if comments attached	_____ Initial if comments attached	_____ Initial if comments attached

PERFORMANCE APPRAISAL SCORE: Locate the Responsibility Score on the back of this form and write it in the appropriate space. Locate the Disciplinary Score, also on the back of this form, and write it in the appropriate space. The Disciplinary Score is subtracted from the Responsibility Score to derive the Performance Appraisal Score. Mandatory documentation is to be maintained in the agency's personnel files if a "Does Not Meet" or "Consistently Exceeds" rating is given.

0	0	=	0
Responsibility Score	Disciplinary Score		Performance Appraisal Score

This employee's work:

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Does Not Meet Standards (6.6 or below)	Partially Meets Standards (6.7 - 16.6)	Meets Standards (16.7 - 26.6)	Exceeds Standards (26.7 - 36.6)	Consistently Exceeds Standards (36.7 - 40)

WORK HABITS: Check the appropriate space for each Work Habit area. Work Habits pertain to conduct occurring in this Appraisal period. Provide an explanation below for marking any work habit as "Unsatisfactory." Attach additional sheets if necessary. No disciplinary action has to be taken to mark a Work Habit "Unsatisfactory."

	Unsatisfactory	Satisfactory
Attendance	___	___
Punctuality	___	___
Cooperation with Coworkers	___	___
Compliance with Rules	___	___

EXHIBIT ONLY

Authorized forms are published on Agency website

RESPONSIBILITIES: List an abbreviated version of the employee's responsibilities below as documented on and discussed during the Preappraisal. Record the appropriate rating in the box for each responsibility. Rating(s) of appropriate responsibilities should reflect any disciplinary action(s) that has been taken during this appraisal period.

0	1	2	3	4
Does Not Meet Standards	Partially Meets Standards	Meets Standards	Exceeds Standards	Consistently Exceeds Standards

Responsibility	Rating
1. _____	<input type="text"/>
2. _____	<input type="text"/>
3. _____	<input type="text"/>
4. _____	<input type="text"/>
5. _____	<input type="text"/>
6. _____	<input type="text"/>
7. _____	<input type="text"/>
8. _____	<input type="text"/>
9. _____	<input type="text"/>
10. _____	<input type="text"/>

EXHIBIT ONLY

Authorized forms are published on Agency website

RESPONSIBILITY SCORE:

<u> </u>	/	<u>0</u>	=	<u>0</u>	X	10	=	<u>0</u>
Total of Responsibilities/Results Ratings		Number of Responsibilities		Average Responsibility Rating				Responsibility Score

DISCIPLINARY ACTIONS: Any disciplinary action taken with the employee during this appraisal period is to be documented below. Provide the number of disciplinary actions and steps taken with the employee during the appraisal year. If no disciplinary action has been taken, a "0" should be marked in each block provided. Attach a copy of the warning(s), reprimand(s), suspension(s), or demotion(s) to the Appraisal.

Warning	Reprimand	Suspension	Demotion
<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

DISCIPLINARY SCORE: This section should include the use of the discipline steps of reprimand, suspension, and demotion only. The Disciplinary Score does not include scores for counseling and warnings. To calculate the Disciplinary Score, identify the most severe step of discipline taken with the employee during this appraisal period. If the most severe step was one or more reprimands, the Disciplinary Score will be 7. If the most severe step was one or more suspensions, the Disciplinary Score will be 17. If the most severe step taken with the employee in the appraisal year was one or more demotions, the Disciplinary Score will be 24. Otherwise, the Disciplinary Score will be 0.

DISCIPLINARY SCORE: 0

CHAPTER ABC-4-8

PROGRESSIVE DISCIPLINE

ABC-4-8-.01	POLICY
ABC-4-8-.02	GUIDELINES
ABC-4-8-.03	COUNSELING BEFORE DISCIPLINE
ABC-4-8-.04	WARNING
ABC-4-8-.05	REPRIMAND
ABC-4-8-.06	SUSPENSION
ABC-4-8-.07	INVOLUNTARY DEMOTION
ABC-4-8-.08	TERMINATION
ABC-4-8-.09	AGENCY RIGHTS

ABC-4-8-.01 POLICY

All ABC Board (Agency) employees are entitled to and will be given fair and equitable treatment. To ensure this type of treatment, all employees must comply with Agency standards of behavior and job performance. It is the goal of management to address issues of noncompliance appropriately, consistently, and as timely as possible.

The Agency has adopted the Progressive Discipline process created and implemented by the State Personnel Department under authority of the State Personnel Board to address behavioral and job performance deficiencies amongst employees. The objective of Progressive Discipline is not punishment but rather to change an employee's behavior and/or performance towards the desired result. This change is accomplished by the implementation of a series of steps beginning with counseling and progressing in severity for continued infractions. Rehabilitating, or changing, an existing employee is beneficial to the Agency as it saves in the areas of recruitment, lost time in the job, and initial training costs of a new employee.

The escalation of penalties within Progressive Discipline usually proceed in the following manner:

- ✓ Counseling (Non-Disciplinary)
- ✓ Warning
- ✓ Reprimand
- ✓ Suspension from Work Without Pay
- ✓ Involuntary Demotion (often combined with another step of Progressive Discipline)
- ✓ Termination

Note: Permanent merit system employees have a property right in his/her job under Alabama law and are entitled to certain protective steps before any disciplinary actions affecting their property rights can be taken against them (i.e., suspension, involuntary demotion, and termination).

Progressive Discipline is documented through the Performance Appraisal process described in [Chapter ABC-4-7](#).

ABC-4-8-.02 GUIDELINES

Before a supervisor makes a decision that discipline is required s/he shall, at a minimum, adhere to the following guidelines:

- (1) Supervisors must ensure that employees are aware of and have access to Agency rules, policies, and procedures for which they are responsible and held accountable.
 - (2) Supervisors must exclusively apply the principles and procedures of the discipline process in an attempt to bring about changes in employee work habits and/or job performance. This guideline applies when dealing with problems involving probationary, unclassified (e.g., Laborer), and classified employees. *While probationary and unclassified employees are afforded the same fair and equitable treatment as permanent merit system employees, they are not entitled to the same due process rights.*
 - (3) When an infraction of rules or substandard behavior and/or performance occurs, the supervisor must gather the facts in a fair and unbiased way. In most cases, supervisors will hold a discussion with the employee(s) involved prior to implementing a step of the discipline process. Written statements from employees/witnesses, departmental forms/documents, surveillance video, audio recordings, etc. should be obtained as available and deemed necessary.
 - (4) Counseling and/or additional training should typically take place prior to taking an official step of discipline against an employee. The Division Head or his/her designee(s) should be notified of situations requiring discipline prior to issuance.
 - (5) The step of Progressive Discipline to be administered to an employee is largely dependent upon severity and/or the number of occurrences of a particular action or type of behavior. Supervisory judgment does come into play making it important to consult with the ABC Personnel Director when making disciplinary decisions. This involvement is intended to ensure the fair and equal treatment of employees across all divisions of the Agency.
 - (6) Prompt action is necessary to achieve the desired corrective results. Thus, behavior and/or performance issues should be addressed and documented as they occur. Supervisors should not stockpile issues over time in order to implement a more severe step of discipline. Failure by a supervisor to address issues as they occur prevents the employee from correcting undesired work habits, policy violations, and/or substandard job performance.
- Regardless of the circumstances, in accordance with State statute (Code of Alabama, § 36-26-29), no charges for termination or disciplinary action shall be preferred against any employee in the classified service of the State after the expiration of three (3) years from the date such cause became known to the authority having the power to terminate or discipline such employee.
- (7) Severe steps of discipline that involve the loss of property by the employee (i.e., suspension, involuntary demotion, and termination) can only be implemented by the Administrator. These severe steps of discipline must be forwarded to the Administrator through the ABC Personnel Director.
 - (8) A disciplinary meeting with an employee should always be conducted in private with only the appropriate personnel present (e.g., supervisor, legal counsel, and/or designated personnel staff member). The supervisor should be prepared to provide the employee with a clear statement of the unsatisfactory work habit(s), policy violation(s), and/or area(s) of substandard job

performance; expected results; mechanisms required to correct the problem; a timeframe in which the issue is to be resolved; and consequences for continued deficiencies. The supervisor must maintain his/her professionalism. Inappropriate displays of anger or temperament are counterproductive and should be avoided.

(9) Prior to placing any disciplinary documentation in an employee's personnel file, the supervisor must provide the employee with a copy of the documentation. If the employee is not provided a copy within ten (10) days, the disciplinary documentation must be removed from the employee's file and cannot be used against the employee in any future proceeding or disciplinary action.

ABC 4-8-.03 COUNSELING BEFORE DISCIPLINE

The steps of Progressive Discipline are Warning, Reprimand, Suspension, Involuntary Demotion, and Termination. Another form of corrective action available for use by supervisors to address deficient work conduct and/or performance issues is Counseling. Counseling is not discipline but rather a method to clearly and concisely document communication between a supervisor and employee regarding deficient work conduct and/or performance issues. Counseling is an effective method for supervisors to address problem areas with employees and offer them an opportunity to improve. After counseling, it is up to the employee to correct the issue(s) addressed to the level specified by the supervisor. In most situations, employees improve in the area(s) of concern and an official step of discipline is not required.

Counseling must be formally documented using the Employee Counseling Form ([Exhibit 4-8A](#)). This form is a tool used by management to formally document remedial discussions held with employees. Using this form, a supervisor will state in detail the problem to be discussed with the employee providing the rule, policy, performance issue, and/or work habit which the employee is in violation of or must improve; list the resolution; and establish the timeframe in which the issue is to be corrected.

A completed Employee Counseling Form should be presented to the employee in a formal meeting. The employee should be informed that his/her failure to correct the behavior and/or performance area(s) necessitating the counseling will lead to an official step of Progressive Discipline. The employee must sign the Counseling Form denoting discussion, not necessarily agreement. Failure by the employee to sign the form will be considered insubordination and appropriate disciplinary action will be taken. **At no time will a supervisor specify what the next step of disciplinary action will be.**

Completed Counseling Forms must be forwarded to the ABC Personnel Division through the appropriate chain of command. Since Counseling is not discipline, Counseling Forms are not placed in the disciplinary section of an employee's work history file. However, should the employee fail to correct and/or improve in an area addressed during a counseling session and a step of Progressive Discipline be administered, the related Counseling Form(s) will be placed in the disciplinary section of the employee's work history file to supplement the disciplinary action taken.

Note: While most issues (e.g., punctuality, absenteeism, dress code, or excessive personal use of telephone) are addressed by Counseling, a supervisor can skip to an official step of Progressive Discipline should the offense be serious in nature.

ABC-4-8-.04 **WARNING (Reference [Guidelines](#))**

Employees who fail to change behavior and/or job performance to desired levels after counseling will be subject to Progressive Discipline. The first step of Progressive Discipline is a Warning. A Warning is documented in writing through the use of the Employee Warning/Reprimand Form ([Exhibit 4-8B](#)), marking the "This is a WARNING (Step 1)" box. This form includes areas for the supervisor to indicate the offense, facts related to the situation, and suggest a remedy using input from the employee. In the remedy section, it may be appropriate to develop a Corrective Action Plan to address the problem area. A Corrective Action Plan informs the employee of the area(s) where improvement is required, the desired result(s), and a specific time period in which the behavior will be reviewed.

A Warning should be administered to the employee in a formal meeting. The employee should be informed that further disciplinary actions will be implemented if the behavior and/or job performance area does not change to the desired level. **At no time will a supervisor specify what the next step of disciplinary action will be.**

The employee must sign the Warning acknowledging discussion and receipt of the form rather than agreement with the action taken. Failure to sign the form will be considered insubordination resulting in further disciplinary action. The employee can respond by submitting a written rebuttal within five (5) working days after the Warning has been administered. The rebuttal will be included in the employee's personnel file along with the Warning.

After the formal session has been completed, a copy of the Warning must be given to the employee. The Warning and associated documentation (e.g., counseling, witness statements, work product samples, etc.) should be forwarded through the supervisory chain of command to the ABC Personnel Division. The Warning will be included in the disciplinary section of the employee's work history file. In accordance with state statute, failure to provide the employee with a copy of the Warning within ten (10) work days of placement into his/her work history file will result in the Warning being null and void.

A Warning is documented on the Employee Performance Appraisal for the appropriate review period in which it occurred. A Warning does not result in any points being deducted from the employee's overall performance appraisal score; however, the applicable work habit area and/or responsibility rating may be negatively impacted. A copy of the Warning is to be attached to the completed Employee Performance Appraisal as documentation.

ABC-4-8-.05 **REPRIMAND (Reference [Guidelines](#))**

The second step of Progressive Discipline is a Reprimand. A Reprimand is typically implemented when an employee's behavior or job performance continues or deteriorates even after s/he has been counseled and/or given a Warning. A Reprimand is documented in writing through use of the Employee Warning/Reprimand Form ([Exhibit 4-8B](#)), marking the "This is a REPRIMAND (Step 2)"

box. As is the case with a Warning, the supervisor should use this form to indicate the offense, facts related to the situation, and suggest a remedy using input from the employee (a Corrective Action Plan may be beneficial).

After the reprimand has been prepared, a formal meeting should be held with the employee to present the Reprimand. The employee should be informed that further, more severe disciplinary action(s) will be implemented if the behavior and/or performance do not change to the desired level. **At no time will a supervisor specify what the next step of disciplinary action will be.**

The employee must sign the Reprimand acknowledging discussion and receipt of the form rather than agreement with the action taken. Failure to sign the form will be considered insubordination and result in further disciplinary action. The employee can respond by submitting a written rebuttal within five (5) working days after the Reprimand has been administered. The rebuttal will be included in the employee's personnel file along with the Reprimand.

After the formal session has been completed, a copy of the Reprimand must be given to the employee. The Reprimand and associated documentation (e.g., counseling, warning, witness statements, work product samples, etc.) should be forwarded through the supervisory chain of command to the ABC Personnel Division. The Reprimand will be included in the disciplinary section of the employee's work history file. In accordance with state statute, failure to provide the employee with a copy of the Reprimand within ten (10) work days of placement into his/her work history file will result in the Reprimand being null and void.

A Reprimand is documented on the Employee Performance Appraisal for the appropriate review period in which it occurred. The work habit area or responsibility of poor performance should reflect the discipline that occurred. The Reprimand should be documented in the "Disciplinary Action" section of the Employee Performance Appraisal. By receiving a Reprimand, the employee's overall performance appraisal score will be reduced seven (7) points.

ABC-4-8-.06 SUSPENSION (Reference [Guidelines](#))

The next step of Progressive Discipline is Suspension. Suspensions are always leave without pay and can range anywhere from one (1) work day to a maximum of thirty (30) calendar days within a one (1) year period. This is a severe and extremely serious step in an employee's career in State government; thus, disciplinary action at this level must be imposed by the Administrator.

Suspensions are not appealable to the State Personnel Board nor can they be processed under the Agency's Employee Complaint Resolution Process. Therefore, to ensure employees are afforded their due process rights, permanent merit system employees are offered a pre-disciplinary hearing before an impartial reviewing officer. Probationary merit system employees and non-merit system employees are not entitled to administrative hearing proceedings established under this section, but they should be given an opportunity for an informal interview by the Division Head or his/her designee to tell their side of the story.

Should a Division Head determine that Suspension is appropriate, s/he must first discuss the situation with the ABC Personnel Director. If a Suspension is warranted, the Division Head or his/her designee will prepare and submit a written recommendation along with all supporting documentation to the ABC Personnel Director. A letter from the Administrator will then be

prepared and presented to the employee that outlines the problem(s) with the employee's behavior or job performance, previous corrective action(s), length of the recommended Suspension, and the location, date, and time of the pre-disciplinary hearing.

The employee must be provided a meaningful opportunity of no less than ten (10) work days to respond to the allegations included in the pre-disciplinary hearing notification letter. The employee can choose to 1) hold the pre-disciplinary hearing, with or without witnesses being made available; 2) waive his/her right to hold a pre-disciplinary hearing and instead provide a written response to the allegations for presentation and consideration by the Administrator; or 3) waive his/her right to hold a pre-disciplinary hearing or respond in writing; thus, accepting the recommended Suspension.

If the employee decides to hold the pre-disciplinary hearing, the Administrator or his/her designee (usually the ABC Personnel Director) will assign another Agency employee, who is a member of management and is not from the division in which the employee works, to serve as the reviewing officer. The evidence in support of the recommendation for Suspension, as well as relevant information which the employee wishes to be considered, will be presented. The employee may be represented by an attorney and/or employees' association representative. Pre-disciplinary hearings are closed and will be attended only by persons with an official purpose. The Agency carries the burden of proof for Suspension proceedings.

Upon conclusion of the pre-disciplinary hearing, the reviewing officer will formulate a written recommendation that upholds the recommended Suspension or offers an alternative solution, which could include a lesser or more severe penalty. This recommendation will be presented to the Administrator for consideration and a final decision will be made. The employee will be sent a letter from the Administrator notifying him/her of the final decision and associated details (e.g., Suspension dates and return to work obligations). An employee may file a written rebuttal within five (5) work days of receiving notice of Suspension. Timely rebuttals will be placed in the employee's Agency and State Personnel Department work history files.

A Suspension is documented on the Employee Performance Appraisal for the appropriate review period. The work habit area or responsibility of poor performance should reflect the discipline that occurred. The corrective action should be documented in the "Disciplinary Action" section of the Employee Performance Appraisal. A Suspension will result in the employee's overall performance appraisal score being reduced by seventeen (17) points.

ABC-4-8-.07 INVOLUNTARY DEMOTION (Reference [Guidelines](#))

Involuntary Demotion ("Demotion") is a severe and extremely serious step in the employee's career in state government; thus, disciplinary action at this level must be imposed by the Administrator.

Demotions are not appealable to the State Personnel Board nor can they be processed under the Agency's Employee Complaint Resolution Process. Therefore, to ensure that employees are afforded their due process rights, permanent merit system employees are offered a pre-disciplinary hearing before an impartial reviewing officer. Probationary merit system employees and non-merit system employees are not entitled to administrative hearing proceedings established under this section, but they should be given an opportunity for an informal interview

by the Division Head or his/her designee to tell their side of the story.

Should a Division Head determine that a Demotion is appropriate, s/he must first discuss the situation with the ABC Personnel Director. If a Demotion appears warranted, the Division Head or his/her designee will prepare and submit a written recommendation along with all supporting documentation to the ABC Personnel Director. A letter from the Administrator will then be prepared and presented to the employee that outlines the problem(s) with the employee's behavior and/or job performance, previous corrective action(s), recommended Demotion, and the location, date, and time of the pre-disciplinary hearing.

The employee must be provided a meaningful opportunity of no less than ten (10) work days to respond. The employee can choose to 1) hold the pre-disciplinary hearing, with or without witnesses being made available; 2) waive his/her right to hold a pre-disciplinary hearing and instead provide a written response to the allegations for presentation and consideration by the Administrator; or 3) waive his/her right to hold a pre-disciplinary hearing or respond in writing; thus, accepting the recommended Demotion.

If the employee decides to hold the pre-disciplinary hearing, the Administrator or his/her designee (usually the ABC Personnel Director) will assign another Agency employee, who is a member of management and is not from the division in which the employee works, to serve as the reviewing officer. The evidence in support of the recommended Demotion, as well as information the employee deems relevant, will be presented during the hearing. The employee may be represented by an attorney and/or employees' association representative. Pre-disciplinary hearings are closed and will be attended only by persons with an official purpose. The Agency carries the burden of proof for Demotion proceedings.

Upon conclusion of the pre-disciplinary hearing, the reviewing officer will formulate a written recommendation that upholds the recommended demotion or offers an alternative solution, which could include a lesser or more severe penalty. This recommendation will be presented to the Administrator for consideration and a final decision will be made. The employee will be sent a letter from the Administrator notifying him/her of the final decision and associated details (e.g., new classification title, job assignment and location, salary rate). When an employee is demoted, his/her salary must be reduced to at least the maximum rate for the new classification. If the employee's present salary falls within the range for the lower classification, the salary may be decreased at the time of Demotion, at the request of the Administrator.

An employee may file a written rebuttal to a Demotion that will be placed in his/her Agency and State Personnel Department work history files. An employee receiving a Demotion cannot appeal the decision to the State Personnel Board; however, they can appeal the decision to the State Personnel Director for review within ten (10) days after being notified of the Demotion.

A Demotion is documented on the Employee Performance Appraisal for the appropriate review period. The corrective action should be documented in the "Disciplinary Action" section of the Employee Performance Appraisal. A Demotion will result in the employee's overall performance appraisal score being reduced by twenty-four (24) points.

ABC-4-8-.08 TERMINATION (Reference [Guidelines](#))

The final step of the discipline process is Termination. Only the Administrator can terminate an individual's employment. The guidelines outlined for Suspension and Demotion are similar to those of a Termination with the primary difference being that the employee's due process rights are not exercised at the Agency level but rather reserved for appeal to the State Personnel Board.

Prior to recommending Termination, the Division Head should consult with the ABC Personnel Director. If Termination appears warranted, a written recommendation should be forwarded to the ABC Personnel Director along with all supporting documentation.

Permanent merit system employees are offered a pre-disciplinary conference prior to a final decision of Termination. Therefore, a letter from the Administrator will be composed notifying the employee of the charge(s), previous corrective action(s), the recommendation for Termination, and the date, time, and location of the pre-disciplinary conference. The employee can choose to 1) hold the pre-disciplinary conference, with or without witnesses being made available; 2) waive his/her right to hold a pre-disciplinary conference and instead provide a written response to the allegations for presentation and consideration by the Administrator; or 3) waive his/her right to hold a pre-disciplinary conference and to provide a written response.

If the employee decides to hold the pre-disciplinary conference, the Administrator or his/her designee (usually the ABC Personnel Director) will assign another Agency employee, who is a member of management and is not from the division in which the employee works, to serve as the reviewing officer. The employee will be given the opportunity to respond to the allegations and the proposed Termination before the reviewing officer. The reviewing officer will consider the information and provide a written recommendation to the Administrator. A letter from the Administrator will then be composed notifying the employee of the final decision and, if applicable, the effective date of the Termination.

A permanent merit system employee who is terminated from State service may, within ten (10) calendar days after receipt of written notice, file an appeal and a written answer to the charges with the State Personnel Board, requesting that a hearing be held. The appeal request must specifically address each and every charge made against the employee along with a current address, telephone number, and, if possible, an email address and facsimile number. A copy of the appeal should also be provided to the ABC Personnel Director.

Probationary merit system employees and non-merit system employees are not entitled to administrative hearing proceedings but they should be given an opportunity for an exit interview by the Division Head or his/her designee to tell their side of the story.

ABC-4-8-.09 AGENCY RIGHTS

Although increasingly severe disciplinary measures are normally applied using the Progressive Discipline process, cases involving serious violations of general work rules could result in Suspension, Demotion, or Termination on the first offense. Prior to taking disciplinary action for a serious violation, contact must be made with the ABC Personnel Director. Serious violations include, but are not limited to:

- Violations of safety rules which endanger life or property;
- Insubordination;
- Theft or unauthorized possession or use of State property;
- Fighting;
- Falsification of records;
- Fraud;
- Possession or use of alcohol, narcotics or dangerous weapons;
- Sleeping on the job;
- Leaving before the end of the shift/walking off of the job;
- Serious disregard for or violations of any Agency rule;
- Job abandonment (three (3) days of unexcused, unreported absence);
- Breach of confidentiality;
- Abusive, obscene, or threatening language; and
- Willful violations of rights of employees and job applicants pursuant to Title VII of the Civil Rights Act of 1964.

In addition to disciplinary action, criminal violations shall also be subject to prosecution in accordance with the Alabama Criminal Statutes.

ABC Exhibit 4-8A



EMPLOYEE COUNSELING FORM

- 1. This form is to be used by supervisors to document remedial discussions with employees. *This is not disciplinary.*
- 2. Prior to any formal counseling, the rating supervisor must discuss the specifics of the problem with the reviewing supervisor.
- 3. Following the counseling session, a completed copy of this form must be provided to the employee. The original must be forwarded to the reviewing supervisor.

Employee's Full Name: _____ Employee ID XXX-XX-_____

Division: _____ Location (Store #): _____

State in detail the problem to be discussed with the employee. Provide the rule, policy, performance issue and/or work habit for which the employee is in violation and/or must improve. Refer to ABC Personnel Policies and Procedures Chapter ABC-4-10 Employee Standards of Conduct, division policies and procedures or rules, the employee's responsibilities and results and work habits. Additional sheets can be attached as necessary.

EXHIBIT ONLY

State how the problem is going to be resolved. Employees are encouraged to provide the appropriate resolution to the problem. If the employee is unable to provide their own resolution the rating supervisor should suggest a remedy.

State the time frame in which the problem will be corrected. For some issues "immediately" may be appropriate; however, some issues require the supervisor to establish a reasonable time frame in which the problem is to be corrected by the employee. A meeting should be scheduled for the employee and the rating supervisor to review the employee's progress, or lack thereof.

SIGNATURES: The employee's signature is an acknowledgment of discussion. It does not necessarily mean that the employee agrees. The employee may submit written comments relating to the above action to the rating supervisor. Comments will be attached to this form. **REFUSAL TO SIGN THIS FORM IS AN ACT OF INSUBORDINATION AND WILL RESULT IN DISCIPLINARY ACTION.**

Supervisor Signature: _____ Date: _____

Employee Signature: _____ Date: _____

Employee comments are attached.
Employee initials indicates receipt of copy of this form.

ABC Exhibit 4-8B



EMPLOYEE WARNING/REPRIMAND FORM

- 1. ABC Personnel Policies and Procedures Chapter ABC-4-9 Progressive Discipline provides guidelines for the proper use of this form.
- 2. Completed forms must be sent through the supervisory chain of command to the ABC Personnel Division.
- 3. This step of discipline **MUST** be indicated on the employee's Final Performance Appraisal for the correct review period.

This is a **WARNING (Step 1)** This is a **REPRIMAND (Step 2)**

Employee Payroll Name: _____ Employee ID XXX-XX-_____

Division: _____ Location (Store #): _____

OFFENSE: List the specific violation as indicated in ABC Personnel Policies and Procedures Chapter ABC4-10 Employee Standards of Conduct, Division Policies and Procedures, and/or Performance Appraisal Responsibilities and Results.

FACTS RELATED TO THE SITUATION: Provide specific details that support the offense(s) listed in the previous section to include dates, times, and location. Any supporting documents and/or evidence should be attached to this form.

EXHIBIT ONLY

Authorized forms are published on Agency website

REMEDY: State how and when the situation is to be corrected (employee input is recommended). If a Corrective Action Plan is developed as a part of the remedy, the details of the plan (e.g., evaluation time frame, training, follow-up meeting date) should be provided below or included as an attachment.

SIGNATURES: Employee signature is required to acknowledge discussion and receipt of the form rather than agreement with the action taken. The employee can respond by submitting a written rebuttal within five (5) working days after the disciplinary action has been administered. The rebuttal will be included in the employee's personnel file along with the completed form.

*****REFUSAL TO SIGN THIS FORM IS AN ACT OF INSUBORDINATION AND WILL RESULT IN DISCIPLINARY ACTION*****

Employee Signature: _____ Date: _____

Supervisor Signature: _____ Date: _____

CHAPTER ABC-4-9

LEAVE

ABC-4-9-.01	<u>GENERAL</u>
ABC-4-9-.02	<u>ANNUAL LEAVE</u>
ABC-4-9-.03	<u>MANDATORY LEAVE</u>
ABC-4-9-.04	<u>SICK LEAVE</u>
ABC-4-9-.05	<u>BEREAVEMENT LEAVE</u>
ABC-4-9-.06	<u>DONATED LEAVE</u>
ABC-4-9-.07	<u>FAMILY AND MEDICAL LEAVE ACT, as amended (FMLA)</u>
ABC-4-9-.08	<u>LEAVE WITHOUT PAY (LWOP)</u>
ABC-4-9-.09	<u>PERSONAL LEAVE DAY</u>
ABC-4-9-.10	<u>HOLIDAY LEAVE</u>
ABC-4-9-.11	<u>COMPENSATORY TIME</u>
ABC-4-9-.12	<u>COURT ATTENDANCE (JURY) LEAVE</u>
ABC-4-9-.13	<u>MILITARY LEAVE</u>
ABC-4-9-.14	<u>SPECIAL SECURITY OR DEFENSE LEAVE OF ABSENCE</u>
ABC-4-9-.15	<u>VOTING TIME</u>
ABC-4-9-.16	<u>ELECTION OFFICIAL LEAVE</u>
ABC-4-9-.17	<u>LIGHT DUTY WORK</u>
ABC-4-9-.18	<u>EDUCATION LEAVE</u>
ABC-4-9-.19	<u>BLOOD DONATION LEAVE</u>
ABC-4-9-.20	<u>DISASTER SERVICES VOLUNTEER LEAVE</u>

ABC-4-9-.01 GENERAL

Employees have an obligation to be at their designated duty location ready to work when their scheduled shift begins. Non-work related absences from scheduled duty require prior approval from the employee's supervisor and must be covered by some form of authorized leave (e.g., annual, holiday, compensatory, sick, FMLA). Leave requests are to be made following prescribed guidelines which require the employee to communicate personally and directly with his/her supervisor prior to the onset of a leave event. Employee's who fail to adhere to Agency leave request guidelines, abuse leave privileges, and/or provide false information to justify an absence from duty will be subject to disciplinary action up to and including termination and/or the possibility of leave without pay.

Agency policy allows employees to use paid leave (all types other than Military Leave) in quarter hour increments (see below):

<u>Period of Absence</u>	<u>Leave Usage</u>
Less than 8 minutes	0
8 to 22 minutes	0:15
23 to 37 minutes	0:30
38 to 52 minutes	0:45
53 minutes to 1 hour	1:00

ABC-4-9-.02 ANNUAL LEAVE

All regular full-time and part-time employees in permanent and provisional positions earn annual leave on a semi-monthly basis. Temporary employees do not earn annual leave. Annual leave is accrued after the end of each semi-monthly pay period where employees are in pay status at least 80% of his/her work schedule. Permanent employees authorized to work a reduced work schedule (i.e., 25%, 50%, or 75%) earn leave on a basis proportional to the time they work. For example, an employee authorized to work a reduced schedule at 50% will earn 50% of his/her annual leave entitlement.

Annual leave is accumulated according to the following schedule set forth in 670-X-13-.02 of the Rules of the State Personnel Board.

<u>Total Service</u>	<u>Semi-Monthly Leave Accumulation</u>	<u>Annual Leave Accumulation</u>
Less than 5 years	4 hours 20 minutes	13 days
5 years but less than 10 years	5 hours 25 minutes	16 days 2 hours
10 years but less than 15 years	6 hours 30 minutes	19 days 4 hours
15 years but less than 20 years	7 hours 35 minutes	22 days 6 hours
20 years but less than 25 years	8 hours 40 minutes	26 days
25 years of service or greater	9 hours 45 minutes	29 days 2 hours

Employees may use accrued annual leave only with the prior approval of their respective supervisor, subject to the right of the supervisor(s) to plan the work under their control. Annual leave requests must be submitted sufficiently in advance to allow supervisory staff the opportunity to plan for his/her absence. Employees are responsible for ensuring that a leave balance is available before requesting/using leave. Annual leave may not be advanced.

The maximum amount of annual leave that can be accrued and carried over to the next calendar year is 480 hours (60 days), except for certain military personnel returning from active duty in the War on Terrorism. The pay period that ends on December 31 also ends the calendar year. Leave accrued for this pay period will post with an effective date of December 31. Therefore, an employee whose balance after this posting is greater than 480 hours will lose the amount in excess of 480 hours.

Upon separation from service, an employee is paid for the actual amount of annual leave accumulated up to 480 hours. The leave payment is based on the hourly pay rate the employee is earning at the time of their separation. Should a separation from service be associated with actions or a course of conduct on the part of the employee contrary to justice, honesty, or good morals constituting moral turpitude, annual leave shall not be paid. Action taken under this provision of the rule must be documented by the Administrator and authorized by the State Personnel Director.

ABC-4-9-.03 MANDATORY LEAVE

The Administrator, with approval from the State Personnel Director, may require an employee to use accumulated annual leave when the Administrator deems the employee's absence from work to be in the best interests of the Agency. Examples of such circumstances include a period of

time when the employee is under investigation leading to disciplinary proceedings, the period of time pending a disciplinary hearing/conference after the employee has received notice of such proceedings, and at such times as the employee is physically incapacitated from performing the work assignment, such as in a state of intoxication. The leave is requested and approved in ten (10) work day increments.

In the event the employee does not have sufficient accumulated leave, the employee may be placed on mandatory leave without pay. If the employee is placed on mandatory leave without pay, the employee must be notified of such and given an opportunity to be heard.

If a situation requiring mandatory leave arises during regular work hours, the Division Head or designee(s) must immediately contact the ABC Personnel Director to advise him/her of the situation. The ABC Personnel Director, acting under authority delegated by the Administrator, must notify the State Personnel Director and obtain verbal authorization prior to placement of the employee on mandatory leave. Once authorized, the employee will be notified of his/her placement on mandatory leave.

Division Heads must ensure that the time an employee is on mandatory leave is minimal. The State Personnel Director will only authorize mandatory leave in intervals not to exceed ten (10) work days. A new request is required for each ten (10) day period thereafter; hence, it is incumbent upon management to conduct and conclude internal investigations and implement disciplinary action, if appropriate, in a timely manner. Supervisors are required to report investigative findings (e.g., statement of the facts and circumstances that caused the action, recommended disciplinary action, affidavits/written statements) through their chain of command to the Division Head. The information will then be forwarded to the ABC Personnel Director for review and presentation to the Administrator.

When a situation is resolved in favor of the employee, s/he may request the restoration of leave and/or pay. If the Administrator agrees with the request, it will be forwarded for consideration by the State Personnel Director. The State Personnel Director has the discretion to restore accumulated leave expended in the above manner.

ABC-4-9-.04 SICK LEAVE

An allowance of four (4) hours and twenty (20) minutes for each semi-monthly period of service is made for sick leave without regard to an employee's number of years of service. Employees must be in pay status 80% of their work schedule to receive leave accruals. Leave does not accrue except when an employee is actually working or on authorized paid leave, and in no case shall leave accrue subsequent to actual separation from State service. Individuals who are part-time permanent employees accrue sick leave on the same basis as their percentage of part-time employment. Hourly temporary employees do not accrue sick leave.

No more than 1,200 hours (150 days) of sick leave can be accumulated. Hours earned in excess of 1,200 are placed in an excess account. If an employee suffers extended illness or disability lasting more than 150 days, the State Personnel Board may, on the recommendation of the appointing authority, approve the restoration and use of any sick leave that might have been earned in excess of this maximum.

The Rules of the State Personnel Board 670-x-14-.01 (b) define sick leave as “the absence from duty of an employee because of: (1) illness; (2) bodily injury not incurred in line of duty, or bodily injury or occupational illness incurred in line of duty, but for which special leave (two-thirds pay option) is not granted; (3) attendance upon members of the immediate family whose illness requires the care of such employee; or (4) death in the immediate family of the employee. Immediate family is hereby defined to include wife or husband, children or grandchildren, parents or grandparents, sister or brother, mother-in-law or father-in-law, and daughter-in-law or son-in-law. Where unusually strong personal ties exist, due to an employee having been supported or educated by a person of some relationship other than those listed, this relationship may be recognized for leave purposes. In each case the employee concerned shall file with his/her appointing authority a written statement of the circumstances which justify an exception to the general rule.”

The grieving period for the death of an immediate family member may exist through the date of burial; however, sick leave will only be authorized for up to three (3) work days. Other forms of accrued leave may be used to account for additional time off required for grieving should the employee appropriately request and receive supervisory approval.

Further, the Rules of the State Personnel Board 670-x-14-.01 (c) (d) state that “sick leave with pay is not a right for which employees may make demand, but a privilege granted in accordance with prescribed rules and regulations, to which the Agency may make exceptions as the best interest of the service demand. Either the appointing authority or the Board may require at any time that a claim for sick leave be supported by adequate evidence; and any unjustified or fraudulent claim for sick leave may be punished by loss of pay, loss of accumulated leave, suspension, or dismissal.”

Consideration of disciplinary action may be appropriate for fraudulent use/abuse of sick leave; such abuse may be indicated if:

- An employee calls in sick on a day which the employee has requested off but the supervisor disapproved the leave request.
- An employee repeatedly calls in before and/or after other days off.
- An employee repeatedly calls in on particular days, i.e., Saturdays, Mondays, or truck day.
- An employee leaves work sick to avoid a particular duty assignment.

Sick leave requests in the form of scheduled doctor’s visits (general physician, specialists, dentists, orthodontists, etc); inpatient hospital stays; and planned medical tests and procedures should be approved in advance. In the event of an “emergency” sick leave request (e.g., unexpected illness) employees are to directly notify their supervisor(s) as soon as possible.

Employees cannot be compensated for accumulated sick leave when they are separated from State service, except in the case of retirement or death. In those instances, a payment for 50% of the employee’s sick leave balance is made up to one half of 1,200 hours. This completely liquidates the employee’s balance. Another option allows an employee to convert all accrued regular sick leave, up to 150 days, to service credit to become eligible for retirement.

Employees leaving State service in good standing who are re-employed within a period of four (4) years from the date of separation, may have a maximum of 480 hours (60 days) of sick leave

accumulated during previous employment restored upon recommendation by the Administrator and approval by the State Personnel Director. However, as sick leave has a “dollar value” upon retirement with the state, the State Personnel Department (SPD) will not accept the routine restoration of such leave.

After an employee has submitted a notice of intent to resign, the supervisor shall monitor the employee’s use of sick leave and may require evidence of need for the use of sick leave. In the absence of adequate evidence, sick leave will not be approved.

In accordance with Merit System Rules, the Agency allows the transfer of accumulated sick leave not to exceed 480 hours (60 days) from county or city Boards of Education and state supported post-secondary schools in Alabama. When an individual is appointed from an Alabama school system or state-supported college, the Agency will secure his/her sick leave balance and make this a part of the work history record to be called upon in the case of an extended illness. To accomplish this action, a letter and supporting documentation from the school system to the State Personnel Director must be forwarded to the ABC Personnel Director, who will then forward the letter to the State Personnel Director for review and approval. Leave approved under this provision will be placed in an escrow sick leave account only to be used if an employee exhausts all accumulated leave.

For example, if an employee exhausts all accumulated annual and sick leave earned with the Agency (including any excess sick leave), s/he may then use this balance (or a portion thereof) to cover days missed from work due to illness upon the approval of the Administrator. In essence, the balance from a local school system or state-supported college serves as “insurance” for the employee, in case of extended illness. Any such balance (or escrow) will not be counted as accumulated sick leave earned with the state and, therefore, will not be paid upon retirement.

ABC-4-9-.05 BEREAVEMENT LEAVE

Section 36-26-36.3, Code of Alabama (1975), provides for bereavement leave to all persons regularly employed by the State, and who are subject to the Merit System. A maximum of three (3) days of bereavement leave with pay per occurrence may be granted to an employee who does not have accrued sick leave available to use for the death of a person related by blood, adoption, marriage, or as otherwise defined by the Rules of the State Personnel Board. Related by blood is defined as limited to within the fourth degree, or “first cousin”. Any leave granted to the employee must be repaid in the form of leave days, including sick leave, annual leave, compensatory time, and personal leave within one (1) calendar year. An employee must repay the leave prior to transferring to a different agency. Employees separating from State service prior to repaying the leave will have the remaining liability deducted from their final paychecks.

Employees having the need to use bereavement leave should contact his/her immediate supervisor at the earliest time practicable to obtain approval for the use of bereavement leave. The employee must document the leave as bereavement leave on the leave request submitted to their supervisor. After bereavement leave is granted, each pay period that the employee accrues leave, a minimum of 4 hours sick, annual, personal or a combination, will be reported on required leave reports until the bereavement leave has been reimbursed. The supervisor will be responsible for tracking bereavement leave that is granted and for ensuring reimbursement. The

current supervisor will be responsible for informing a new supervisor of any outstanding bereavement leave balance when a change in supervision occurs.

ABC-4-9-.06 DONATED LEAVE

The Agency will adhere to the guidelines set forth by the SPD for the donation of leave. Whether to allow donated leave for an employee is at the discretion of the Administrator. All donated leave correspondence must be submitted through ABC Personnel. ABC Personnel will facilitate the process with SPD and keep employees and supervisors apprised.

In order to receive donated leave, an employee must have suffered a catastrophic illness or injury, or be the caregiver for a member of his/her immediate family, as defined by the Family and Medical Leave Act (FMLA), with a catastrophic illness or injury. A catastrophic illness or injury has been defined as one from which an individual will never fully recover the ability to work or which is life threatening, or one requiring a recuperation period of approximately one (1) or more years. The catastrophic illness must be certified by a licensed physician and approved by the State Personnel Director.

FMLA defines an "immediate family member" as the employee's child, parent/legal guardian, or spouse. Individuals who do not qualify as immediate family members are the employee's in-laws, siblings, ex-spouses, aunts, uncles, cousins, grandparents, grandchildren, children 18 years old or older (unless the child has a serious health condition that prohibits the child from caring for himself/herself), or stepchildren, unless the children are living in the employee's house and the employee is the primary financial provider.

If the employee is requesting donated leave as the caregiver for an immediate family member (as defined by the FMLA), then the physician's statement must indicate this, and explain why the employee's presence is required, in addition to providing details about the catastrophic illness/injury of the immediate family member.

Examples of qualifying catastrophic illnesses/injuries warranting leave donations include a brain tumor, rejection of a kidney transplant, or a mother caring for her child after his/her spinal cord was severed.

An employee eligible for maternity leave may qualify for donated leave during the time her doctor states she is disabled due to the pregnancy. Examples of disability due to pregnancy are: miscarriage, bed rest due to a life threatening situation, or post-partum recuperation. A physician's verification of disability is required.

The following policies and procedures apply to the state donated leave program:

- Donated leave will only be granted to employees who have attained permanent merit system status.
- Donated leave can only be received after the employee has exhausted all available leave balances.
- The beneficiary employee must communicate with and secure approval from his/her Division Head, or designee, prior to submitting a Request for Donated Leave (Form 25) and associated documentation to ABC Personnel.

- No Employee may receive more than 480 hours of donated leave throughout his/her career with the State without the approval of the State Personnel Board.
- The Administrator may limit the number of hours an employee may receive per catastrophic illness or maternity leave event.
- Leave donations can only be received from employees assigned to an equal or higher pay range.
- Leave shall be donated and taken in whole hours only.
- Annual, sick, or compensatory leave may be donated but it will be credited to the beneficiary employee as sick leave.
- Donations of leave may occur between the Executive, Legislative, and Judicial branches of government.
- An employee who is leaving State service is not allowed to donate more leave than could be taken prior to separation date.
- The receipt and/or use of donated leave does not protect an employee's job after the twelve (12) week period covered by FMLA is exhausted.
- If the employee is absent more than thirty (30) days or the time approved, a Form 25 must be submitted with a recent recertification from the physician certifying that the employee is still incapacitated with the same illness/injury.
- Employees are strictly prohibited from soliciting leave donations from co-workers on their behalf. Solicitation is defined as any communication in which a person(s) requests/suggests, or otherwise encourages, the donation of leave to/from individuals. All donations must be given freely, upon the sole initiation of the donating individual, without any influence from others.

ABC-4-9-.07 FAMILY AND MEDICAL LEAVE ACT, as amended (FMLA)

(1) **Purpose** - FMLA entitles eligible employees to take up to twelve (12) weeks (26 weeks for certain military related reasons) of unpaid, job-protected leave in a 12-month period for specified family and medical related reasons. The purpose of this policy is to balance Agency needs with those of our employees while complying with legal mandates attached to the FMLA.

(2) **Policy** - It is the policy of the Agency not to unlawfully interfere with, restrain, or deny the exercise of any right provided under the FMLA; and not to discharge or discriminate against any person for opposing any practice made unlawful by the FMLA or for involvement in any proceeding under or relating to the FMLA.

(3) **Definitions** - The following are terms and their definitions as applicable under the FMLA:

(a) **Chronic condition** - a condition that requires periodic visits for treatment by a healthcare provider at least twice a year, continues over an extended period of time, including recurring episodes of a single underlying condition, and may cause episodic incapacity rather than continuing incapacity.

(b) **Eligible employee** - an employee who has worked for the Agency for at least twelve (12) months, which need not be continuous, and has worked at least 1,250 hours for the Agency over the past 12 months.

(c) **Family Member** - An employee's spouse, children (son or daughter), and parents are immediate family members for purposes of FMLA. The term "parent" does not include a parent "in-law." The terms son or daughter do not include individuals age 18 or over unless they are "incapable of self-care" because of a mental or physical disability that limits one or more of the "major life activities" as those terms are defined in regulations issued by the Equal Employment Opportunity Commission (EEOC) under the Americans With Disabilities Act Amendment Act (ADAAA).

(d) **Healthcare provider** - Healthcare providers who may provide certification of a serious health condition include:

- Doctors of medicine or osteopathy authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices.
- Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice under State law.
- Nurse practitioners, nurse-midwives, and clinical social workers authorized to practice under State law and performing within the scope of their practice as defined under State law.
- Any healthcare provider recognized by the employer or the employer's group health plan's benefits manager.
- A healthcare provider listed above who practices in a country other than the United States and who is authorized to practice under the laws of that country.

(e) **Qualifying exigency** - a non-medical activity that is directly related to the covered servicemember's active duty or deployment to a foreign country. Qualifying exigencies include the following:

- Short-notice deployment (seven days)
- Military events and related activities
- Childcare and school activities
- Financial and legal arrangements
- Rest and recuperation (15 days)
- Post-deployment activities (90 days)
- Caregiver to military member's parents
- Other agreed upon by employer and employee

Time for child care allows employees to arrange for alternative child care, or to provide childcare on an urgent, immediate need basis, but not on a routine, regular, or everyday basis. Leave to handle qualifying exigencies is available to family members of the active members of the Armed Services as well as members of the Reserves or Guard.

(f) **Serious health condition** - an illness, injury, impairment, or physical or mental condition that involves:

- Any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility.

- A period of incapacity requiring absence of more than **three (3) consecutive calendar days** from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a healthcare provider.
- Any period of incapacity due to pregnancy, or for prenatal care.
- Any period of incapacity (or treatment therefore) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.).
- A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal diseases, etc.).
- Any absences to receive multiple treatments (including any period of recovery therefrom) by, or on referral by, a healthcare provider for a condition that likely would result in incapacity of more than three (3) consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.).

A serious health condition does not include routine physical examinations, eye examinations, dental examinations, the common cold, the flu, earaches, upset stomach, minor ulcers, or headaches, with the exception of migraines, unless there is a complication. Cosmetic treatments such as plastic surgery are not covered under the FMLA unless there is a complication. Moreover, absence because of an employee's use of an addictive substance, such as drugs or alcohol, does not qualify for FMLA leave unless the absence is for inpatient treatment of this condition.

(4) Traditional FMLA Entitlements - Eligible employees may take up to twelve (12) workweeks per 12-month period for one (1) or more of the following reasons:

- The birth of an employee's child, including, but not limited to, prenatal doctor appointments, morning sickness, bed rest, childbirth, and care for the newborn child within the first twelve (12) months after birth.
- The placement of a child with the employee for adoption or foster care, including, but not limited to, court appearances, social work home visits, attorney appointments, and to bond with the child within the first 12 months after placement.
- To care for an immediate family member such as an employee's spouse, child, or parent/legal guardian who has a serious health condition.
- For a serious health condition that makes the employee unable to perform the essential functions of his/her job.

The 12-month period is not a calendar year but is a rolling year. The rolling year is measured twelve (12) months backwards from the date an employee uses any FMLA leave. Each time an employee takes FMLA leave the remaining leave entitlement will be the balance of the twelve (12) weeks, which has not been used during the immediate preceding twelve (12) months.

State holidays for which the employee is paid do not count toward the 12-week FMLA period. Any leave that an employee takes due to an on-the-job injury covered by the State Employee Injury Compensation Trust Fund (SEICTF) may be concurrently designated as FMLA leave if the employee meets the FMLA criteria. Certain circumstances allow FMLA leave to be applied retroactively.

Spouses who are both employed by the State but in different agencies are each entitled to a maximum of twelve (12) weeks for the birth or placement of a child for adoption or foster care.

However, if both are employed by the Agency, they are entitled to a combined maximum of twelve (12) weeks. Leave may begin prior to birth or placement, as circumstances dictate. If an employee's child or spouse is seriously ill, both the employee and his/her spouse are each entitled to twelve (12) weeks of leave regardless of employment in the same or different agencies.

(5) Military FMLA Entitlements - Procedures stated above for traditional FMLA apply to military FMLA unless specifically stated otherwise. To qualify for leave under the military FMLA provisions, an employee must be eligible for traditional FMLA leave and be either:

- The parent, spouse, son, daughter, siblings, grandparents, aunts, uncles, first cousins, or any one designated by a service member in the Regular Armed Forces, National Guard, or a Reserve component of the Armed Forces, or of an Armed Forces retiree, who is on active duty (or has been notified of an impending call or order to active duty) in a foreign country; or
- The spouse, son, daughter, parent, or next of kin of a covered servicemember or a veteran who has served within the last five (5) years undergoing medical treatment, recuperation, or therapy, who is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. The serious illness or injury is one incurred by the member in the line of duty on active duty that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating. A serious illness or injury can result from the aggravation of a pre-existing condition due to active duty, as well as the manifestation of a condition which requires treatment, recuperation, or therapy within five years after the individual leaves the military.

Under the military FMLA, eligible employees may be able to take:

- Up to 12 workweeks of leave in a 12-month period because of a qualifying exigency that arises out of the fact that a spouse, parent, or child has been called to or is on covered active military duty in the Armed Forces or deployed to a foreign country; or
- Up to 26 workweeks of leave in a 12-month period to care for a covered servicemember of the Armed Forces who has a serious injury or illness. This 12-month period is measured forward from the beginning date of leave, even if this is different to the rolling year for other FMLA leave.

The illness or injury was in the line of duty or existed before active duty or was aggravated by service in the line of duty and that manifested before or after becoming a veteran, and that is either:

- a continuation of a serious injury or illness that was incurred or aggravated when the veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of his/her office, grade, rank or rating; or
- a physical or mental condition for which the veteran has received a service related disability rating of 50% or greater and the leave is related to the condition; or
- a physical or mental condition that substantially impairs the veteran's ability to work because of a disability related to military service, or would do so absent treatment; or
- an injury including a psychological injury, on the basis of which the veteran is enrolled in the VA Program of Comprehensive Assistance for Family Caregivers.

Employees may take a total combined leave of twenty-six (26) weeks for qualifying reasons during the caregiver leave year - basically when the two (2) leave years overlap. For example, if an employee were to take twelve (12) weeks of leave for the birth of a child, when s/he went on leave to care for a covered servicemember, a new leave year would begin. Servicemember care leave must be run on a measured forward basis, no matter what leave year is identified for the other reasons for leave.

(6) Leave Usage - The 12-week FMLA leave entitlement is to be charged concurrently with accumulated sick leave, personal leave day, annual leave, or leave without pay. Under the FMLA, compensatory time is not considered paid leave but substitution for paying public employees for overtime worked. Therefore, the Agency may not charge the FLSA compensatory time taken against the employee's separate FMLA leave entitlement. However, the employee, not the Agency, has the option of using any accumulated compensatory time in order to receive pay during absence.

Any FMLA leave taken for a single condition should be taken all at one time. An employee may take FMLA leave intermittently or by reducing his/her work schedule to care for a family member with a serious health condition or for the employee's own serious health condition, only if medically necessary and with proper medical certification. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt Agency operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

For the birth of a child, the employee must use sick leave for only the period of disability. Generally, the recovery period for the birth of a child is six (6) weeks. Additional time charged to sick leave must be documented by a medical care provider. All other leave must be taken from any portion of available annual leave and personal leave day. In the event there is not sufficient leave, the remaining time off will be leave without pay.

For the adoption of a child, the employee must use annual leave and personal leave day. Additional time off must be leave without pay.

When an employee is on an FMLA reduced work schedule, which must be approved by the Administrator, time not worked during the workweek will be charged against the employee's FMLA leave balance.

(7) Employee Responsibilities

(a) Notice of Leave - The employee is required to submit a request to take FMLA leave to the same person(s) within the Agency the employee ordinarily contacts to request other forms of leave, usually the employee's supervisor. When requesting leave, an employee must:

- Supply sufficient information for the Agency to be aware that the FMLA may apply to the leave request, as well as information regarding the anticipated timing and duration of leave.
- Request FMLA-qualifying leave at least thirty (30) days in advance of the need for leave or as soon as possible. If thirty (30) days notice is not possible, such as a medical emergency, written notification must be given to the Agency within one (1) or two (2) business days of when the need for leave becomes known to the employee.

- Make a reasonable effort to schedule foreseeable leave so the leave is as least disruptive to work operations, subject to the doctor's approval.
- Cooperate with all requests for information regarding whether absences are FMLA qualifying.

Failure to comply may result in leave being delayed or denied.

(b) Leave Certification - All Agency employees are required to certify his/her need for FMLA leave within fifteen (15) days of receiving notice of such requirement. If an employee refuses to provide a certification, his/her leave request may be denied and the employee may be disciplined.

There are separate certification forms for the different types of leave:

- Leave to care for the employee's own serious health condition (Form WH-380E)
- Leave to care for a family member's serious health condition (Form WH-380F)
- Leave to handle a qualifying exigency due to active military duty (Form WH-384)
- Leave to care for a family member injured or made ill in the line of military duty (Form WH-385)

If the employee provides an incomplete or insufficient certification, the employee will be provided written notification of what the certification needs to make it complete and/or sufficient. The employee then has seven (7) days to provide corrections. Employees who do not provide enough information to the Agency in regard to leave may risk denial of the leave.

The Agency may require, at its discretion and expense, a second medical opinion if it has a reasonable question regarding the medical certification provided by the employee. The doctor providing the second medical opinion cannot be one who is regularly employed by the Agency. If the first and second opinions differ, the Agency, at its own expense, may require the binding opinion of a third healthcare provider approved jointly by the employee and the Agency. In lieu of a second opinion, the ABC Personnel Division may contact the healthcare provider, after receiving the employee's permission, to clarify a medical certification. ABC Personnel and/or ABC legal counsel may contact the healthcare provider to authenticate any medical certification without receiving the employee's permission. The immediate supervisor may not contact the healthcare provider for any reason.

ABC Personnel and/or ABC legal counsel may seek authentication and/or clarification of medical information but will not seek a second opinion or recertification for military caregiver leave. Contact may, however, be made with the appropriate unit of the Department of Defense to request verification that a covered military servicemember is on active duty or called to active duty status, without the employee's permission.

The employee may be required to provide periodic recertification on a reasonable basis, generally thirty (30) days, for chronic/long-term illness. A recertification may be requested in less than thirty (30) days if the employee asks for an extension of leave, circumstances have changed, or the Agency has doubts about the employee's FMLA status. While on FMLA leave the employee is required to report periodically as defined by the Agency on the status of the condition and/or intention to return to work.

(c) **Fitness for Duty Certifications** - Upon obtaining enough information to determine whether the absence qualifies for FMLA, a Designation Notice (Form WH-382) will be sent to the employee informing him/her whether the leave will be designated as FMLA qualifying. Because the Agency wishes to ensure the wellbeing of all employees, any employee returning from FMLA leave for his/her own serious health condition will need to provide a fitness for duty certification signed by his/her healthcare provider indicating his/her ability to perform all essential functions of their position. An employee who fails to provide a fitness for duty certification will be prohibited from returning to work until it is provided and may be subject to disciplinary action up to and including Termination.

(8) Employer Responsibilities

(a) **Notice of Leave Eligibility/Qualification** - ABC Personnel will inform employees requesting leave whether they are eligible under FMLA by sending them a Notice of Eligibility and Rights and Responsibilities Form (Form WH-381). In addition to notifying the employee of his/her eligibility for leave, the notice also specifies any additional information required as well as the employee's rights and responsibilities.

Once the employee has provided sufficient information, ABC Personnel will provide correspondence notifying the employee if the leave is FMLA-protected as well as the amount of leave counted against the employee's leave entitlement through use of a Designation Notice Form (Form WH-382), if such information is available. If the Agency determines that the leave is not FMLA-protected, the Agency will use the Form WH-382 to notify the employee.

(b) **Maintenance of Health Benefits** - During FMLA leave, the Agency will maintain the employee's individual group insurance benefits at the same level and under the same conditions as if the employee had been working. If an employee must take FMLA LWOP, there is no adjustment to his/her leave progression start date. Standard employee premiums and dependent insurance coverage must be paid by the employee directly to the State Employees' Insurance Board. If an employee elects not to return to work at the conclusion of the approved leave, or returns for less than thirty (30) days, s/he may be required to reimburse the Agency for the employer's portion of the premiums paid on his/her behalf during the leave period. Insurance premium reimbursement does not apply to employees who are unable to return to work due to the continuation, recurrence, or onset of a serious health condition, or if the employee retires immediately.

(c) **Job Restoration** - Upon return from FMLA leave, an employee must be restored to his/her original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. In addition, an employee's use of FMLA leave cannot result in the loss of any employment benefit that the employee earned or was entitled to before using FMLA leave.

Under specified and limited circumstances where restoration to employment will cause substantial and grievous economic injury to its operations, an employer may refuse to reinstate certain highly-paid "key" employees after using FMLA leave. To refuse reinstatement to key employees, the Agency must notify the employee in writing of 1) the employee's status as a key employee and 2) the reason(s) for denying job restoration. The

Agency will provide the employee a reasonable opportunity to return to work after being notified of his/ her status as a key employee.

In addition to denying reinstatement in certain circumstances to "key" employees, the Agency is not required to continue FMLA benefits or reinstate employees who would have been laid off or otherwise had their employment terminated had they continued to work during the FMLA leave period as, for example, due to a general layoff.

Employees who give unequivocal notice that they do not intend to return to work lose their entitlement to FMLA leave. Employees who are unable to return to work and have exhausted their 12 weeks of FMLA leave in the designated "12 month period" no longer have FMLA protections of leave or job restoration.

Employees involved in disciplinary actions from management will still be under those actions after returning to work from an FMLA leave of absence.

(9) Enforcement - If an eligible employee has a complaint regarding an alleged FMLA violation, s/he should follow the complaint procedures for reporting discrimination and harassment violations (see [ABC Chapter 4-2-.03 Complaint Procedures](#)). After pursuing this course of action, if the employee remains dissatisfied, the employee may contact the State of Alabama Personnel Department or the Wage and Hour Division of the U.S. Department of Labor. A notice approved by the Secretary of Labor explaining an employee's rights and responsibilities under the FMLA is displayed on bulletin boards throughout the Agency.

ABC-4-9-.08 LEAVE WITHOUT PAY (LWOP)

Agency employees are expected to remain in pay status with all absences from work being covered by paid leave. Employees who have exhausted all annual leave and are required to use LWOP to cover an absence from work may be subjected to disciplinary action, unless such absence is covered under the FMLA.

Should a situation arise where an employee is out of work for an extended period of time and exhausts his/her annual leave balance, s/he can submit a written request to the Administrator requesting a leave of absence without pay. According to Section 670-x-15.03, Rules of the State Personnel Board, as amended, the Administrator may grant in writing to any employee a leave of absence without pay for a period not to exceed one (1) year. The Administrator will approve or disapprove the request based upon what is best for the Agency. Such approval by the Administrator is subject to final approval by the State Personnel Director when the need for leave is not connected to a medical condition protected under the FMLA.

Employees must obtain approval from the Administrator for an extended leave of absence prior to the onset of such leave. These written request must be forwarded through the employee's supervisory chain of command to his/her Division Head where it will be forwarded to the ABC Personnel Director for presentation to the Administrator. Failure to obtain written approval prior to the onset of such leave may subject the employee to disciplinary action.

LWOP requests should be submitted only when necessary and must not be abused. An extended leave of absence will not be approved for employees to pursue other employment, work other jobs, go into business for oneself, or for discretionary leave purposes (e.g., vacation).

If LWOP usage exceeds nineteen (19) consecutive days, the employee must pay their health insurance premium, unless the employee is protected under the FMLA. Regardless of the reason the employee is on LWOP, the employee is responsible for paying the employee's portion of their health insurance premium as well as any applicable dependent care coverage premiums. Failure by the employee to maintain payment of health insurance premiums will result in their health insurance coverage being canceled. Consequently, upon returning to work, the employee must re-enroll for health insurance benefits under the same conditions required of a new employee.

Upon the expiration of such leave of absence, the employee shall be reinstated to a position in the classification s/he occupied at the time the leave was granted, even though this may require terminating the individual hired to perform the employee's duties during his/her leave of absence. Failure of an employee to report for duty promptly at the expiration of a leave of absence will be interpreted as a voluntary resignation from State service.

Should Agency operations necessitate such action, an employee on an approved leave of absence may be notified to return to work prior to the time of the expiration of their leave of absence. Should s/he fail to return to work as notified, the State Personnel Director shall declare the position vacant and will fill it by means prescribed for the filling of vacant positions.

ABC-4-9-.09 PERSONAL LEAVE DAY

All Agency employees, to include full-time temporary employees, employed on January 1st and in pay status a minimum of half of his/her scheduled work day before and after January 1st will be granted a personal leave day (except those in Mobile and Baldwin counties who receive Mardi Gras Day). Employees hired after January 1st are not eligible for the personal leave day during the calendar year in which they were appointed. Part-time hourly employees or employees who are out of work on LWOP or suspension on January 1st are not eligible for the personal leave day.

Personal leave hours must be used before any other type leave, except sick leave or military leave. Supervisors will schedule their employee(s) to use a personal leave day that has not been used before December 31.

ABC-4-9-.10 HOLIDAY LEAVE

Agency offices and stores will close on all legal holidays as established by Alabama law and on other days as may be designated by the Governor. An employee must be in pay status a minimum of half his/her work day before and after the holiday to be entitled to receive the holiday. This means that employees who are on suspension or leave without pay before or after a holiday will not be eligible to receive the holiday.

Part-time employees whose work day falls on a holiday will receive the scheduled hours for the holiday if in pay status a minimum of half of his/her scheduled work day before and after the holiday. Hourly employees who qualify to receive benefits and has met the minimum threshold of

one (1) year employment and worked at least 1,500 regular hours in the previous year are eligible for a holiday if in pay status a minimum of half of his/her work day before and after the holiday.

There are times when employees are required to work on a holiday or when a holiday falls on an employee's regularly scheduled "off day" resulting in the holiday being accumulated, or banked, for use at a later time. In such scenarios, supervisors should schedule the employee to use the holiday in the quarter it is earned. If the holiday is not used in the same quarter the employee has the option to be paid for the holiday or carry it forward for up to one (1) year. If the employee opts to be paid for the holiday or the holiday has been accrued for one (1) year, State Personnel Department must be notified in writing prior to payment.

Prior to August 1st of each year, banked holiday leave must be used before annual leave. After August 1st, employees can use excess annual leave before banked holiday leave if s/he is in jeopardy of losing leave at the end of the calendar year.

ABC-4-9-.11 COMPENSATORY TIME

The Fair Labor Standards Act (FLSA) is a federal law governing minimum wage, overtime pay, equal pay, record keeping, and child labor laws. The Wage and Hour Division of the U.S. Department of Labor has authority over FLSA.

According to the FLSA criteria, there are two (2) basic categories of employees, exempt and non-exempt. Exempt employees are those in positions which meet the tests for the executive, administrative, or professional positions. Such employees are not covered under the overtime provisions established under the FLSA and are not entitled to overtime or compensatory leave. Non-exempt employees are covered by the overtime provisions of the FLSA. In most cases, support employees (administrative support assistants, legal assistants, laborers, sales associates, etc.) are considered to be non-exempt. Non-exempt employees are specifically identified by classification and generally supervise two (2) employees or less and are not delegated any independent decision making authority.

Non-exempt employees must document all time worked to receive appropriate compensation. Non-exempt employees receive compensatory time for any hours physically worked in excess of forty (40) hours in one workweek (FLSA cycle), which is Saturday through Friday. Should it appear that an employee may work over forty (40) hours in an FLSA cycle, the supervisor must attempt to modify the employee's schedule for the remainder of the workweek to prevent the employee from working in excess of forty (40) hours.

If overtime is unavoidable and a non-exempt employee physically works in excess of forty (40) hours during any FLSA cycle, s/he must be awarded compensatory time at the rate of time and one-half (150 percent) for all excess hours physically worked. Non-exempt employees who are in pay status in excess of forty (40) hours during an FLSA cycle but do not physically work over forty (40) hours will be awarded "straight" compensatory time (100 percent or hour-for-hour).

Non-exempt employees should only work overtime as directed and approved by the appropriate supervisory authority. Overtime must be documented and approved in advance by an employee's supervisor as it is NOT an option of the employee.

Prior to August 1st, compensatory time must be scheduled/used before banked holiday or annual leave. After August 1st, employees can use excess annual leave before compensatory time if s/he is in jeopardy of losing leave at the end of the calendar year.

Because compensatory time is not earned until after the FLSA cycle is completed (midnight Friday), leave earned cannot be used until the next work week after it has been earned. As with other types of accrued leave, supervisors must approve the use of compensatory leave; however, a supervisor's justification for the disapproval of an employee's request for the usage of compensatory leave is much greater than for other types of leave. If an employee submits a request for compensatory leave, sufficiently in advance of firm work schedules being established, the supervisor may only recommend disapproval of the request if the absence will "unduly disrupt", not merely inconvenience the supervisor. Any disapproval of an employee's request for compensatory leave must be forwarded to the appropriate Division Head for validation.

ABC-4-9-.12 COURT ATTENDANCE (JURY) LEAVE

Pursuant to Code of Alabama (1975), Section 12-16-8, et seq, Agency employees receiving a summons for jury duty shall be granted Court Attendance Leave with pay for the day(s) s/he is required to serve on a jury panel. Hourly employees will take LWOP to attend jury duty, unless the jury duty falls at a time in which they are normally scheduled to work. Employees must coordinate scheduling with their supervisors and submit/complete supporting documentation.

An employee called for jury service is excused from work for the day or days during which jury service is required. In other words, as long as jury service continues, his/her primary responsibility is to that service and s/he must be excused from work to perform that service. However, in accordance with §12-16-8.1, Code of Alabama (1975), when the term of jury service is over and the juror is dismissed from service (serving less than six (6) hours that day), s/he must return to work to complete the remainder of his/her regularly scheduled shift. Employees serving over six (6) hours are excused from work for the day in which they are released from jury duty and must return to work for his/her next regularly scheduled shift. Employees serving less than six (6) hours can only be excused from work only if s/he is excused by their supervisor and on authorized paid leave.

To help ensure employees are not exhausted from long work schedules when reporting for jury duty, the following applies:

- Supervisors will adjust the work schedule of an employee required to perform jury duty to allow reporting at the earliest normal start time the day before the service is set to begin.
- The combined time of jury duty and work hours will not exceed eight (8) hours total for that day. If an employee is required to report for jury duty the following day, the supervisor will not schedule that employee to work after 6:00 p.m.
- Supervisors will minimize the period an employee would need to work to complete normal scheduled duty after being released by the Judge/Court Official for that day from jury duty.

Attendance in court by law enforcement agents or other employees in an official capacity is not considered leave. If an Agency employee serves as a witness in their official capacity, the employee must turn all witness fees over to the Agency.

Permanent employees who attend court on their own behalf or who are subpoenaed in their personal capacity must use paid leave (i.e. personal, compensatory time, holiday, or annual) to cover the absence.

ABC-4-9-.13 MILITARY LEAVE

All employees who are active members of the Alabama National Guard or Naval Militia, the Alabama State Guard organized en-lieu of the National Guard, the civilian auxiliary of the U.S. Air Force (Civil Air Patrol), the National Disaster Medical System, or the reserve components of the U.S. Army, Navy, Marine Corps, Air Force, or Coast Guard are entitled to military leave of absence on all days that they shall be engaged in field or coast defense or other training or on other service ordered under the provisions of the military laws of Alabama, or of the National Defense Act, or of the federal laws governing the U.S. Naval Reserves, without loss of pay, time, annual leave, or sick leave.

No such leave with pay shall be for more than 168 hours in any one (1) calendar year. Additionally, such persons are entitled to be paid for no more than 168 hours when called by the Governor to duty in the active service of the state. Therefore, a qualifying service member is entitled to 168 hours of leave with pay while in federal status per calendar year and an additional 168 hours of leave with pay per calendar year if called to duty in the active service of the state by the Governor. If an employee is required to serve beyond the 168 hour allotment the additional time must be treated as military leave without pay unless the employee wishes to use accumulated personal, compensatory, holiday, or annual leave.

When applying for military leave, the employee should submit an Application for Military Leave, Form 14, to his/her supervisor at least two (2) weeks prior to scheduled drill/ training. Upon receipt, the supervisor should immediately forward the military leave request and associated documentation to the ABC Personnel Division for review. An approved copy will be returned to the employee's supervisor.

The Agency is entitled to receive notice, either verbal or written, from the employee or the employee's military commander prior to the onset of military duty as far in advance as possible. The Agency is prohibited from conditioning permission to leave for military duty upon the employee's presentation of written military orders.

Upon completion of drill/training the employee will submit a Military Drill Training Validation Form MIL-1 to the appropriate military official for validation of attendance at drill/training. This form must be returned by the military unit directly to ABC Personnel where it will be filed with the employee's Form 14. The Agency reserves the right to contact the military unit to validate the employee's attendance.

An annual raise date should not be adjusted due to an employee being on military leave without pay. An annual raise cannot be granted unless the Agency submits an annual performance evaluation.

An employee called to active duty while serving a probationary period cannot complete the probation until s/he returns to work. The probationary period is considered "frozen" until the employee returns to work from active duty. Once the employee returns, however, s/he can only

be terminated for cause during the remainder of the probationary period. If permanent status is achieved, the permanent status date shall be backdated to reflect the date the employee would have completed probation but for his military service.

Employees returning from active duty must also notify the State Personnel Department within the time limits prescribed under federal guidelines (see section below) as to their desire to take current, promotional examinations that were administered during the time of their deployments.

(1) Military Pay Differential and Leave Restoration

Requests for a pay differential and/or leave restoration based on Ala. Code §31-12-5 (2009 Cum. Supp.) must be made in accordance with the guidelines set up for applying for reinstatement under the Uniformed Service Employment and Reemployment Rights Act of 1994 (USERRA). These guidelines are as follows:

- For service of less than 31 days - the next regular scheduled shift on the day following release, safe travel time, and eight (8) hours of rest.
- For service of 31 through 180 days - within fourteen (14) days following release.
- For service of 181 days or more - within ninety (90) days following release.

(a) Pay Differential - Ala. Code § 31-12-5 (2009 Cum. Supp.) (Act No. 2002-430) became effective July 1, 2002, and is retroactive to September 11, 2001. This law provides for any State employees called into active service in any of the Armed Forces of the United States for the War on Terrorism, which commenced in September 2001, to receive compensation in an amount which is equal to the difference between their active duty military pay, if it is lower than their State salaries, and the higher State salaries which they would have continued to receive if not called to active service.

The length of time the employee receives this pay shall be determined by the Adjutant General of the Alabama National Guard. The term military pay as used in the pertinent section of this law is interpreted to be Basic (Base) Pay as set forth in Chapter 3 of Title 37 of the United States Code. It does not include the Special and Incentive Pays as set forth in Chapter 5 of Title 37, the allowances set forth in Chapter 7 of Title 37 of the United States Code, or other fringe benefits.

For employees who are eligible for the difference in pay, the employee will request payment in writing by completing a Military Leave/Differential Request, Form 1. This form, along with a copy of the military orders and the related payroll leave and earning statements, is submitted to the Agency payroll officer who will then complete the Certificate of Military Service Form, Form 2.

The Certificate of Military Service, Military Leave and Differential Request Form, military orders and military payroll information (including signed release) is forwarded to the State Military Department, P.O. Box 3711, Montgomery, AL 36109. After the Adjutant General certifies that the duty performed was for Homeland Security/War on Terrorism and that the employee served thirty (30) or more consecutive days, all documents will be returned to the ABC Personnel Division.

The Agency payroll officer then calculates the difference in the active duty base pay and the state salary. For the days the employee was on military leave without pay and his/her military base pay was less than what s/he would have received had s/he remained in his/her civilian job, the employee will be eligible to receive the difference in pay from the Agency.

(b) Leave Restoration - An Attorney General's Opinion of Ala. Code §31-12-8 (2009 Cum. Supp.) (Section 8 of Act No. 2002-430) requires the State of Alabama to reinstate annual leave that a reservist in State employment felt compelled or required to take under the circumstances and in the exercise of his/her independent judgment as a result of being called to active duty in the War Against Terrorism.

An employee who meets the requirements of this law and used annual leave in such a manner, can request to have the leave restored. If qualified, any leave used before or during activation that the employee certifies was used for this purpose is restored to the leave balances. Any annual leave restored that increases the employee's leave balance to more than 480 hours can be carried over to January 1 of the following year. The employee then has one (1) calendar year to use the excess annual leave. If the employee has not used the excess annual leave during this calendar year, it cannot be carried over a second time and is lost. The employee must complete the Military Leave and Differential Request Form, Form 1, with the attached military orders and submit them to the ABC Personnel Division who will verify the amount of annual leave used and submit the Military Leave/Differential Form, the Certificate of Military Service Form, military orders and the leave detail to the State Military Department. After the Adjutant General certifies the duty performed was for Homeland Security/War on Terrorism and that the employee served thirty (30) or more consecutive days, all documents will be returned to the ABC Personnel Division. The package will then be forwarded to the State Personnel Department for restoration. Annual leave hours can be restored only one (1) time and are not restored until the employee returns from active duty.

If an employee is reactivated, previously restored annual leave hours cannot be included in the calculation for restoration of annual leave hours used during the second or subsequent deployment. For example, if an employee has an annual leave balance of 480 hours and uses 400 hours during the initial activation, the 400 hours will be restored. If the employee is subsequently reactivated, s/he will be entitled to restore the 80 hours remaining from the original 480 hours plus any annual leave time accrued during the 400 hours of annual leave usage.

This policy constitutes the policy of the Agency with regard to those employees of the Agency who are also members of the military. The rights of those employees who are also members of the military are to be strictly observed and will be protected. All supervisory personnel are cautioned against making any statements or taking any actions that may be considered contrary to this policy.

ABC-4-9-.14 SPECIAL SECURITY OR DEFENSE LEAVE OF ABSENCE

When the services of a regular employee have been requested by any agency of the United States for work directly related to national security or defense, s/he may be granted a leave of absence without pay for such time as his/her services may be needed. Provided that, the United States

shall state in writing that the need is urgent and shall in each case name the employee whose services are desired; and provided further, that the Administrator shall certify his/her willingness to release the employee.

An employee on leave under these conditions shall give the Administrator and the State Personnel Director at least thirty (30) days notice when s/he is ready to return to his/her regular position, and the Administrator shall reinstate him/her within this period. In any case that such an employee fails to return to his/her regular position within sixty (60) days of release from the specific work for which leave was granted, s/he shall forfeit all rights to reinstatement.

ABC-4-9-.15 VOTING TIME

Section 17-1-5, Code of Alabama (1975), specifies that employees are not allowed additional time to vote "if the hours of work of the employee commence at least two (2) hours after the opening of the polls or end at least one (1) hour prior to the closing of the polls." The Agency does not allow any work schedules that qualify for voting time. Therefore, employees do not receive additional time off for voting.

ABC-4-9-.16 ELECTION OFFICIAL LEAVE

An election official is a position established by statute with a fine for failing to attend. Individuals are appointed to serve as election officials by county officials from lists nominated by the political parties. A person so serving is paid fifty dollars (\$50). If a State employee is appointed as an election official and performs such duties while in work status, the employee must endorse the check over to the Agency. If the employee takes annual leave to perform as an election official, the employee may retain the fifty dollars (\$50).

ABC-4-9-.17 LIGHT DUTY WORK

It is the policy of the Agency to only allow light/modified duty work assignments to employees suffering from an appropriately documented injury suffered in the line of duty; should the Agency be able to reasonably accommodate such an assignment.

ABC-4-9-.18 EDUCATION LEAVE

Although the rules of the State Personnel Board make some provisions for educational leave, it is the policy of the Agency not to allow educational leave for employees to attend regular classes at any institution of higher learning including, but not limited to: colleges, universities, and technical schools. The Agency will, however, authorize employees to attend conferences, seminars, and job related training classes that will benefit the overall mission of the Agency, should funding be available.

ABC-4-9-.19 BLOOD DONATION LEAVE

An employee who donates blood to a charity or organization (e.g., Red Cross, LifeSouth) may be granted two (2) hours of leave with pay (officially documented as blood leave) upon the approval of the employee's supervisor and Division Head. The employee must provide adequate evidence

of the blood donation and take the authorized leave within two (2) weeks after the donation. The leave must be used in two (2) hour increments with no more than four (4) hours of leave for blood donations being authorized in a calendar year.

ABC-4-9-.20 DISASTER SERVICES VOLUNTEER LEAVE

In compliance with Section 36-1-9, Code of Alabama (1975), the Agency allows leave with pay for all permanent state employees who have received the appropriate training and who volunteer for American Red Cross operations with disaster designated levels of IV and above.

An employee will be granted leave from work with pay no more than fifteen (15) work days in any twelve (12) month period to participate in specialized disaster relief services for the American Red Cross at the request of the American Red Cross and upon the recommendation of the Attorney General and with approval of the Governor.

CHAPTER ABC-4-10

EMPLOYEE STANDARDS OF CONDUCT

- ABC-4-10-.01 [PURPOSE](#)
- ABC-4-10-.02 [GENERAL WORK RULES](#)
- ABC-4-10-.03 [EMPLOYEE STANDARDS OF CONDUCT](#)

ABC-4-10-.01 PURPOSE

The Agency has a unique responsibility that requires our employees to have constant interaction with the general public and other state, federal, and local government entities. Therefore, it is critical that each employee adhere to high ethical standards in all business relationships and provide courteous, fair, and competent service while performing their job responsibilities.

To ensure that the highest ethical and moral standards are exhibited by our employees, the Agency expects each employee to adhere to the general work rules and standards of conduct included in this chapter. These general work rules and standards of conduct are not all inclusive and there is no implication that discipline may not be imposed for other sufficient reasons. (*Reference: [Rules of the State Personnel Board](#), as amended, Chapter 670-x-19*).

All employees have an obligation to read, understand, and comply with the rules and standards included herein. Failure to abide by these standards may result in disciplinary action up to and including termination from State service.

ABC-4-10-.02 GENERAL WORK RULES

In addition to any special rules implemented by the various Division Heads for the guidance of their employees, the following standard general work rules shall apply to all Agency employees. The lists are not all-inclusive and there is no implication that discipline may not be imposed for other sufficient reasons. These rules are consistent with those of the [Rules of the State Personnel Board](#), as amended, Chapter 670-x-19.

- (1) **Minor Violations** - violations that normally result in disciplinary actions of increasing severity:
- a) Violations of safety rules.
 - b) Absenteeism - unexcused absences, unreported absence, a pattern of absences, or excessive absences.
 - c) Tardiness- not on the job ready to work at the beginning of the shift.
 - d) Inattention to the job - Doing anything distracting while on the job.
 - e) Failure to perform job properly.
 - f) Leaving job station without permission.
 - g) Disruptive conduct of any sort including a lack of cooperation and an unpleasant behavior toward fellow employees and/or supervisor.

- h) Abuse of equipment.
- i) Unauthorized operation of vehicles, machinery, or equipment.
- j) Participation in unauthorized activity or solicitations on work premises.
- k) Poor housekeeping.
- l) Unauthorized use of telephones.
- m) Unauthorized use of bulletin boards.
- n) Violations of specific department rules.

(2) **Serious Violations** - More serious violations that may result in suspension or termination on the first offense, considering work record and length of service.

- a) Violations of safety rules which endanger life or property.
- b) Insubordination - Failure to follow an order; disobedience; failure to submit to authority as shown by demeanor or words, with the one exception of not following an order the employee has good reason to believe is unsafe or illegal.

Note: The State Personnel Board considers "disrespectful and disruptive conduct" to be insubordination. The Board has also consistently found that failure to obey a direct order is insubordination. A few examples where the Board found that an employee was insubordinate and terminated from State service are as follows:

- Employee disobeyed a direct order as to the placement of his lunch bags.
- Employee said an expletive in response to a supervisor's instruction and walked out of the room.
- Employee refused to transfer to another work location.
- Employee failed to obey a direct order to provide a home telephone number and failure to return FMLA paperwork.
- Employee refused to provide his supervisor a copy of documents he was copying and became loud, abusive, and disruptive when ordered to write a statement regarding the incident.
- Employee told her supervisor to "go to hell" and called him a "horrible man."
- Employee became "agitated" with his supervisor and told him to "go for it."

- c) Theft or unauthorized possession of Agency property.
- d) Fighting.
- e) Use of abusive or threatening language.
- f) Falsification of records - Application for Employment, time card, doctor's excuse, etc.
- g) Possession or use of alcohol, narcotics, or dangerous weapons.
- h) Sleeping on the job.
- i) Leaving before the end of the shift/walking off the job.
- j) Serious violation of any other Agency rule.
- k) Job abandonment which consists of three (3) days of unexcused, unreported absence.

ABC-4-10-.03 EMPLOYEE STANDARDS OF CONDUCT

(1) **Professional Behavior and Conduct** - Professional conduct requires compliance with Agency policies and procedures, the Rules of the State Personnel Board, Alabama Ethics Laws, and other standards of conduct which members of the public expect of State employees. Agency employees are expected to demonstrate high standards of personal integrity and must conduct themselves in a professional manner. An attitude of cooperation and respect is expected of every employee. Interaction with fellow employees must not cause dissention or discord. Malicious or excessive griping; loud, disruptive talking that affects the activities of other employees; vulgar, abusive, or threatening language; and emotional outbursts at another individual of the Agency are examples of inappropriate conduct from employees that will not be tolerated. Employees are cautioned against the use of profanity in general conversation as such language is inappropriate, unprofessional, and offensive.

Employees are expected to perform their assigned duties conscientiously and to respond readily to the direction of supervisors. Failure to comply with a supervisor's instructions, arguing with a supervisor, and resisting authority are unacceptable and will subject the employee to disciplinary action.

(2) **Appearance and Dress Code** - As a State employee, the public's impression of Agency operations is influenced heavily by the appearance of its employees. During regular business hours, when functioning as a business representative, employees are expected to be dressed and groomed in a manner that projects a professional and business-like image. At the discretion of the appropriate Division Head, exceptions may be made for reasons including but not limited to an employee who works after normal business hours; performs certain physical tasks as a part of his/her job; is assigned a special work assignment(s); or has a documented and/or obvious medical condition that prevents the employee from wearing certain types of clothing.

Professional appearance also means employees are to maintain good personal hygiene and grooming while working. Earrings are acceptable; however, rings through the nose, eyelid, tongue, or other visible body parts may not be worn while working. Tattoos must be covered while working if they are, or could be, considered offensive. If an employee has a question concerning whether a certain type of clothing is appropriate, s/he should ask their supervisor prior to wearing the clothing.

Examples of appropriate/inappropriate dress in the workplace are being provided to make certain employees understand what the Agency defines as a professional and business-like image. Given the wide variety and ever-changing styles of dress, this list is not intended to be all-inclusive.

Appropriate Dress

- Clothing that is clean and free of wrinkles
- Clothing that is suited for activities scheduled that day (public contact or meetings)
- Suits, sport coats, dress shirts, ties, and slacks
- Dresses, skirts, pants, blouses, sweaters
- Polo, golf, and sport shirts
- Dress sandals, loafers, and boots

Inappropriate Dress

- Clothing not properly laundered or having tears, or holes
- Visible undergarments
- Clothing with inappropriate advertising, slogans, or emblems
- Provocative or revealing attire (see-through or strapless)
- Clothing that does not fit properly (too tight or too baggy)
- Sweat suits and wind suits
- Shorts or skorts
- Short skirts or dresses (more than 3 inches above the knee)
- Skirts or dresses with revealing splits
- Tank tops, halter-tops, or crop tops
- Flip-flops, house shoes, Crocs, or tennis shoes
- Open-toe shoes worn around heavy equipment or machinery

Note: Some occasions may be designated as casual days on which employees may wear jeans, but employees are still to present a neat appearance, with no ripped or disheveled clothing, athletic wear, or other inappropriate clothing.

Division Heads are responsible for monitoring and enforcing the dress code in their division. Supervisors shall report infractions of the dress code to his/her Division Head, or designee. If it is determined that an employee is in violation of the dress code, s/he may receive corrective action and possibly be sent home to change requiring the use of personal leave or leave without pay.

(3) Alcohol/Drugs and the Workplace - There is a “zero tolerance” policy regarding alcohol abuse and the illegal use of controlled substances. Employees are prohibited from:

- Possessing, distributing, selling, manufacturing, or being under the influence of any illegal drug;
- Using alcohol while on Agency property or while operating state-owned or leased vehicles, machinery, equipment, or other property; and
- Abusing prescription drugs or possessing prescription drugs that have not been prescribed for the employee by a licensed physician.

Detailed information pertaining the Agency’s commitment to providing a workplace free of alcohol and drug use, to include employee and supervisor responsibilities, is provided in this manual as [Chapter ABC-4-4 Drug-Free Workplace Policy](#).

(4) Hours of Work - All Agency employees are required to observe attendance rules regarding hours of work, holidays, and annual, sick, military, and special leaves of absence with or without pay. An employee is in “pay status” when actually working or when on authorized paid leave.

Employees are required to comply with work hours established by his/her supervisor. Violations, such as tardiness and unexcused, unreported, and/or excessive absenteeism (that may or may not result in leave without pay or removal from pay status), could lead to disciplinary action as such behavior disrupts work schedules and places an added burden on co-workers and supervisors.

- a) **Rest Periods** - Full-time FLSA non-exempt employees are allowed a rest period not to exceed fifteen (15) minutes for each four (4)-hour work period. Rest periods cannot be used at the beginning or end of a work day to offset arrival and departure times. Supervisors are given discretion to schedule rest periods as work permits.
- b) **Meal Period** - Agency employees are allowed a bona fide meal period during a work day where s/he is completely relieved from duty while eating a meal. An employee is not relieved if s/he is required to perform any duties, whether active or inactive, while eating. Ordinarily, thirty (30) minutes is adequate for a bona fide meal period although Agency employees typically observe a one (1) hour meal period. Employees cannot voluntarily choose to skip a meal period as such an action requires supervisory approval. Supervisors should ensure that additional time worked by skipping a meal period shall not result in the accrual of compensatory time unless previously approved by an authorized employee of the Agency.
- c) **Overtime** - Situations requiring an employee to work more than forty (40) hours during a workweek require prior authorization from the Division Head or his/her designee(s). FLSA non-exempt employees working over forty (40) hours during a workweek may be compensated in the form of compensatory time off in lieu of monetary payment. Overtime payments for ABC Enforcement Agents will conform with provisions established under Chapter 36-21-4 Code of Alabama.

More detailed information regarding the policies, procedures, and employee responsibilities associated with work hours, to include the proper handling of inclement/severe weather situations, are included in [Chapter ABC-4-6 Hours of Work](#).

(5) **Smoking/Use of Tobacco Products** - All Agency facilities and vehicles are designated as "no smoking areas." Authorized smoking locations may be designated by Division Heads and/or designee(s) at each work facility as long as the location is not adjacent to the primary entrance used by the public to access the facility. Designated smoking areas must be kept neat and not allowed to become littered with cigarette butts. Smokers who desire to smoke during their scheduled work hours must do so during their authorized rest period(s). Preferential treatment of smokers such as granting multiple breaks from assigned duties is prohibited. Customers and other non-Agency employees are also prevented from violating this policy and may be politely reminded that Agency facilities are "no smoking areas." The use of any other tobacco product (e.g., e-cigarettes, smokeless tobacco) is likewise prohibited except in designated areas.

(6) **Personal Visitors in the Workplace** - The Agency understands that occasions arise where personal visitors such as family members and friends visit the workplace. On such occurrences, employees are expected to respect their co-workers and the Agency by limiting the amount of time personal visitors are present. While visiting, they are not allowed to use State equipment, access work products, be unsupervised, or engage in the performance of the employee's job responsibilities. Employees who provide access to or allow such activity will be held accountable for the personal visitor's actions and may be subject to disciplinary action.

On rare occasions, an unexpected event may require an employee to take care of his/her child in the workplace during work hours. These times should be brief and only until other arrangements are made or leave is authorized. These occurrences, however, should not disrupt business

operations. Allowing such activity does not mean that an employee is allowed to bring their children to work in lieu of making childcare arrangements.

(7) Care of Official Documents - All records and documents generated and maintained by an employee is Agency property and must be used for official purposes only. It is unlawful to remove, conceal, alter, mutilate, or destroy records or documents, or to remove or attempt to remove with the intention of performing any of the above actions. Employees must not remove records and documents from official files without approval from the proper Agency authority. Disposal, destruction, or distribution of Agency documents is to be made in accordance with established procedures.

Employees will be held accountable for the loss, disappearance, or theft of official documents when attributable to negligence or carelessness. Recovery of documents may not necessarily mitigate the effects of the loss.

(8) Accountability for Money and Property - All State property including official documents and data may only be used for officially approved activities. Employees are expected to protect and conserve all State property entrusted or issued to them; promptly report the loss of, or damage to property entrusted to them; and return all State property upon separation from the Agency.

Any money, property, or other items of value received by or coming into the custody of an employee in connection with the performance of his/her job must be accounted for, deposited, or otherwise disposed of in accordance with established procedures.

(9) Motor Vehicle Operation - State vehicles may be used for authorized business only. Employees who operate a motor vehicle to perform Agency business must possess a valid driver's license before operating a government-owned, rental, or private vehicle on the job. A suspended or revoked driver's license is not valid regardless of the circumstances associated with the decision to suspend/revoke the license. Employees who operate a motor vehicle on the job have sole responsibility for notifying his/her supervisor immediately upon conviction for reckless driving or driving under the influence, whether or not the offense was committed while on the job, or upon the suspension or revocation of their driver's license.

An employee occupying a position where the possession of a valid driver's license is an essential aspect of the job whose license becomes invalid will be removed from driving duties and could be subject to transfer, demotion, and/or termination.

Employees authorized to use motor vehicles in the performance of their job responsibilities must ensure safety and compliance with all traffic laws. Employees who drive any vehicle on Agency business, whether government-owned, a rental, or personal, are automatically covered for liability through the Employee Auto Liability Program.

If an employee is involved in an accident and investigation into the matter deems the driver at fault due to careless and negligent operation, disciplinary action will be implemented. Accidents occurring while operating a government-owned vehicle or while conducting Agency business that causes more than one thousand dollars (\$1,000) in damage to property or requires medical

attention away from premises will require the employee to submit to an alcohol and/or drug screen. Depending on the nature of the accident, employees may be required to appear before an accident review board.

(10) Employee/Witness Statements - Employees may be required to participate in administrative proceedings associated with due process (pre-disciplinary hearings/conferences); employee grievance/complaint hearings; appeal hearings; and/or internal investigations performed by authorized Agency staff. Any employee of the Agency who makes false statements; refuses to testify, make statements, and/or answer questions; or is obviously evasive in answers shall be subject to disciplinary action up to and including termination. Any employee who threatens, harasses, intimidates, or coerces another employee based on his/her participation in such administrative proceedings shall be subject to disciplinary action, up to and including termination. This policy is not intended to replace and does not conflict with an individual's rights against self-incrimination in situations that may lead to criminal prosecution for the violation of a law.

(11) Prohibition of Political Activities (Rules of the State Personnel Board, as amended, Chapter 670-X-19-02).

- a) No person shall be appointed, promoted, demoted, or dismissed from any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified service because of his political or religious opinions or affiliations.
- b) No person shall seek or attempt to use any political endorsement in connection with any appointment to a position in the classified service.
- c) No person shall use or promise to use, directly or indirectly, any official authority or influence whether possessed or anticipated, to secure or attempt to secure, for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person, or for any consideration.
- d) No employee in the classified service and no member of the board shall, directly or indirectly, pay or promise to pay any assessment, subscription, or contribution for any political organization or purpose or solicit to take any part in soliciting any such assessment, subscription or contribution under coercion; provided it shall be unlawful for any officer or employee to solicit any type of political campaign contributions from other employees who work for a said officer or employee in a subordinate capacity.
- e) No employee in the classified service shall be a member of any national, state, or local committee of a political party or an officer of a partisan political club or a candidate for nomination or election to any public office or shall take any part in the management of affairs of any political party or in any political campaign, except on his personal time and to exercise his right as a citizen privately to express his opinion and to cast his vote; provided that nothing in this section shall prohibit any person in the classified service from serving out the term of a party office for which he had been elected at the time this chapter goes into effect.
- f) Any employee in the classified service may engage in political action or political activities on personal time before and after work, holidays and during approved leave.

g) Any officer or employee in the classified service who violates any of the foregoing provisions of this section shall forfeit his office or position. Revised by Act No. 83-497 1983 Regular Session of the Alabama State Legislature.

(12) Religious Expression - The Agency does not seek to promote or discourage the practice of any religion or faith. Casual religious conversation between employees is not prohibited; however, such activity must not give the appearance of approval of any religious preference by the Agency and must not disrupt Agency operations.

Employees may hold religious meetings on Agency property prior to or after work hours or during their meal period. However, such meetings shall be held behind closed doors to prevent non-participants from being offended. Inviting other employees is allowed as long as it is clearly relayed that participation is strictly voluntary and carries no actual or perceived pressure, coercion, or approval by supervisory staff.

Religious materials cannot be posted on Agency bulletin boards, windows, doors, walls, etc. The display of religious materials in an employee's work area is not prohibited so long as the reasonable person would not interpret such material as an Agency endorsement of any religion. Religious expressions are not to be included in written or electronic communication in which Agency business is conducted.

Title VII of the Civil Rights Act of 1964, as amended, requires the Agency to reasonably accommodate the religious practices of employees and prospective employees, unless doing so would create an undue hardship for the Agency. Employee's requiring such an accommodation should talk to his/her supervisor and suggest a reasonable solution. The supervisor will then coordinate with the ABC Personnel Director and/or ABC legal counsel to determine the reasonableness of the requested accommodation.

(13) Sexual Harassment - The Agency is committed to fostering a work environment free from all forms of sexual harassment and intimidation. Verbal and physical conduct of a sexual nature including sexual advances, requests for sexual favors, or other conduct which tends to create an intimidating, hostile, or offensive work environment by any employee, supervisor, manager, contractor, or vendor is strictly prohibited. Further, it is prohibited for supervisors to grant special treatment to subordinate employees with whom they are romantically involved. Employees who violate the Agency's policy that prohibits sexual harassment will be subject to severe disciplinary action, up to and including termination from State service.

Employees who believe they have/are being subjected to sexual harassment by a co-worker, supervisor, manager, or any other individual (whether or not employed by the Agency), or who believe their employment is being adversely affected by such conduct, should report such incidents to their immediate supervisor. In cases where an employee feels threatened or uncomfortable reporting such conduct to their immediate supervisor s/he should report the conduct to a higher level supervisor within his/her chain of command, the ABC Personnel Director and/or ABC legal counsel. A prompt, thorough, and impartial investigation will be conducted following Agency guidelines with special efforts to keep the matter confidential and prevent reprisal. (See [Chapter ABC-4-2 Equal Employment Opportunity](#))

(14) Conformance to Laws - Employees must obey the laws of the United States and the State of Alabama. Any employee who is convicted of a crime relating to his/her employment shall be subject to disciplinary action up to and including termination.

Any employee who has been indicted or arrested for a crime that reasonably gives rise to legitimate fear for the safety of other employees, the property of the State, or jeopardizes the public trust in Agency employees or undermines trust in the integrity of the laws of Alabama, may also be subject to disciplinary action up to and including termination from State service.

Any employee who has been indicted or arrested for any crime must report such indictment or arrest to their Division Head, ABC Personnel Director, Agency legal counsel, or the Administrator within twenty-four (24) hours of the indictment or arrest. If such indictment or arrest occurs on a weekend, the employee must report the indictment or arrest at the beginning of the next business day. Failure of an employee to report an arrest or indictment within twenty-four (24) hours will result in disciplinary action up to and including termination.

(15) Identification/Security Cards - The Agency issues identification cards, security cardkeys, and/or badges to employees. The use of these items is only to establish identity, authority, or to gain access to Agency facilities in connection with official job duties.

The decision to require employees to openly display identification cards during work hours is delegated to Division Heads with consideration being given to an employee's work location and/or job requirements.

Employee security cardkeys are primarily issued to Central Office employees as a means by which employees secure building access; thus, employees must not loan their security cards to anyone, including other employees. Employees must report a broken or lost security card to the appropriate authority as soon as possible so the cardkey can be deactivated in the system. Employees may be held responsible for fees associated with the replacement of broken or lost cardkeys.

Upon separation from employment, employees must return security cardkeys, identification cards, and office keys to their supervisor. Returned items will then be forwarded to the appropriate Agency official.

(16) Firearms - The possession or use of firearms or other dangerous weapons inside Agency property is strictly prohibited. Employees who violate this guideline will be subject to severe disciplinary action up to and including termination from State service. Sworn law enforcement personnel are the only Agency employees authorized to carry firearms as a part of their official duties. Firearms will be issued by the ABC Enforcement Chief or his/her designee(s).

(17) Workplace Violence - Agency employees are entitled to a workplace which is safe and free from both verbal and physical threats made by any other individual. To establish and maintain such a working environment, it is essential that supervisors are attentive to employee behavior and recognize and confront violence and/or the threat of violent behavior. Employees who are judged as exhibiting dangerous or potentially dangerous behavior must be advised of this

assessment and offered available counseling services through the Employee's Assistance Program (EAP). Supervisors are responsible for notifying the ABC Personnel Director and/or ABC legal counsel immediately upon observing such behavior; documenting unacceptable behavior; and offering EAP and relaying the employee's response to the offer to the ABC Personnel Director.

Any employee who, based on supervisory judgment, appears dangerous toward other individuals or is deemed unfit to perform his/her duties safely will be prohibited from continuing to work. Such employees will not be able to return to work until they receive a release from a licensed physician indicating a fitness for duty. The failure of an employee to comply with an assessment and counseling recommendation may be subjected to disciplinary action.

This policy should be viewed as a positive and proactive step towards providing a safe workplace for all employees. It is the desire of the Agency to help employees with issues that could result in workplace violence by offering them professional assistance that will prevent harm to themselves and/or others.

(18) Security during Operating Hours (Central Office) - The main reception area of the Agency's Central Office in Montgomery is open to the public from 8:00 a.m. until 5:00 p.m. Monday through Friday. All Agency visitors must sign in with the security guard and be issued a visitor's badge before entering the facility.

(19) Contact with the Public and News Media - Only the Administrator, or designee(s), may issue news releases to the media and/or exchange information with the public regarding previous, ongoing, or future operations of the Agency. Staff members found in violation of this policy may be subject to severe disciplinary action up to and including termination from State service.

(20) Employee Relationships/Dating in the Workplace - The Agency strongly believes that employees must maintain a work environment where clear boundaries are established between employee personal and business interactions. Although this policy does not prevent the development of friendships or romantic relationships between co-workers, it does establish very clear boundaries as to how relationships will progress during working hours and within the working environment.

Individuals in supervisory positions or other influential roles are subject to more stringent requirements under this policy due to their status as role models, their access to sensitive information, and their ability to influence others.

The following procedures regulate employee relationships:

- During working time and in working areas employees are expected to keep personal exchanges limited so that others are not distracted or offended by such exchanges and so that productivity is maintained.
- During non-working time, such as lunches, breaks and before and after work periods, employees are not precluded from having appropriate personal conversations in non-work areas as long as their conversations and behaviors could in no way be perceived as offensive or uncomfortable to a reasonable person.

- Employees are strictly prohibited from engaging in physical contact that would in any way be deemed inappropriate by a reasonable person at any Agency work location, whether during working hours or not.
- Employees who allow personal relationships with co-workers to affect the working environment will be subject to disciplinary action that is progressive in nature. Failure to change behavior and maintain expected work responsibilities thereafter will be deemed a serious rules violation that could lead to severe disciplinary action.
- Employee off-duty conduct is generally regarded as private, as long as such conduct does not create problems within the workplace. An exception to this principle, however, is romantic or sexual relationships between supervisors and subordinates.
- Supervisors, managers, executives, or anyone else in sensitive or influential positions must disclose the existence of any relationship with another co-worker that has progressed beyond a platonic friendship. Disclosure may be made to the immediate supervisor or the ABC Personnel Director. This disclosure will enable the organization to determine whether any conflict of interest exists because of the relative positions of the individuals involved.
- Where problems or potential risks are identified the organization will work with the parties involved to consider options for resolving the problem. The initial solution may be to make sure that the parties involved no longer work together on matters where one is able to influence the other or take action for the other. Matters such as hiring, firing, promotions, performance management, compensation decisions, financial transactions, etc. are examples of situations that may require reallocation of duties to avoid any actual or perceived reward or disadvantage.
- In some cases, other measures may be necessary such as transfer to other positions or divisions/departments.
- Refusal of reasonable alternative positions, if available, will be deemed a voluntary resignation.
- Continued failure to work with the organization to resolve such a situation in a mutually agreeable fashion may ultimately be deemed insubordination and therefore serve as cause for immediate termination. The Agency's disciplinary policy will be consulted to ensure consistency, however, before any such extreme measures are undertaken.
- The provisions of this policy apply regardless of the sexual orientation of the parties involved.
- Where doubts exist as to the specific meaning of the terms used above, employees should make judgments on the basis of the overall spirit and intent of this policy.
- Any employee who feels they have been disadvantaged as a result of this policy, or who believes this policy is not being adhered to, should make their feelings known to the ABC Personnel Director or other designated individual.

(21) Confidentiality of Information - Personal information, written or unwritten, such as medical, financial, or social (e.g., address, social security number, telephone number) given to any Agency employee in any capacity is strictly confidential. Only authorized Agency personnel can distribute confidential information to other individuals, typically requiring written consent from the individual in which the information is requested. Discussions involving confidential information must be done on a minimal basis and in a private setting. Employees must not attempt to obtain confidential information for which they are not authorized.

(22) Outside Employment - Section 36-1-11, Code of Alabama (1975), allows persons who are regularly employed by the State and whose pay is seventy-five thousand dollars (\$75,000) or less, excluding benefits, to engage in employment in the private sector if the employment is not specifically prohibited by statute and there is no conflict with the State job of the State employee. However, no employee shall engage in employment in the private sector during his/her scheduled work hours. Prior to continuing or accepting any private employment, employees must notify their Division Head with that information being passed along to the ABC Personnel Director and/or ABC legal counsel.

The Agency is open to giving employees the ability to engage in outside employment or business activities. To protect Agency operations and comply with State statutes regarding private employment, no employee shall:

- accept outside employment that may impair “independence of judgment” in the exercise of official job duties;
- accept outside employment or engage in any business or professional activity that will require the employee to disclose confidential information that was gained by reason of his/her official position or authority; or
- accept outside employment in violation of Section 36-1-11, Code of Alabama (1975).

An activity that is permissible for an employee in one (1) Division may not be permissible for another employee due to a possible conflict of interest with employee’s official duties or a violation of Section 36-1-11, Code of Alabama (1975). *Therefore, in considering each case on its individual merits, the employee must satisfy the following principles:*

- The outside activity does not place the employee in a situation where there is a conflict, or in a situation which gives the reasonable basis for the impression of a conflict, between his/her private interests and his/her official duties and responsibilities;
- The outside activity (unless otherwise permitted) would not relate directly to matters associated with the employee’s official duties;
- The nature of the employment or business activity or the hours to be devoted to such activity would not impair the employee’s availability, capacity, or efficiency for the performance of his/her office duties as an Agency employee;
- The employee will not, in any manner, advertise or make it known that they work for the Agency in order to generate or enhance business for himself, herself, or any member of the employee’s immediate family; and
- Employees shall not engage directly or indirectly in financial transactions as a result of, or primarily relying on, information obtained through their employment with the Agency. In particular, they shall not use confidential and/or privileged information obtained in the course of their employment with the Agency as a means to obtain benefits, financial or otherwise, for themselves, their families, or others.

Legal activities involving federal, state, local government, and any other matter in which the state is a party are prohibited. Section 36-15-9, Code of Alabama (1975), states “All assistant attorneys general of the State of Alabama appointed by the Attorney General, or by the Attorney General with the approval of the Governor, are hereby prohibited from engaging in the private practice of the law during the time they are such assistant attorneys general...”

In addition to the above restrictions, an employee may not use State equipment (e.g., telephones, computers, vehicles, e-mail) for conducting private business activities or other activities where the employee will materially benefit from such activity. The restrictions pertain to activities such as negotiating with clients of one's own private business, buying private business supplies, selling products, etc. Further, employees are strictly prohibited from giving out or publicizing the state telephone numbers or e-mail addresses for personal business use.

The *de minimis* use of State equipment is allowed for the performance of personal affairs, as long as such use does not increase the costs of the Agency or interfere with work requirements.

(23) Alabama Ethics Law Obligations - It is important that there be public confidence in the integrity of Agency operations. Thus, no public employee should use his/her position with the Agency for private gain other than the remunerations provided by law. All employees are expected to understand and abide by Alabama Ethics Laws which can be seen in its entirety in the Code of Alabama (1975) at [sections 36-25-1 through 36-25-30](#).

While Agency employees are expected to adhere to all ethics laws in the referenced sections, a few of the definitions and statutes included in the Alabama Ethics Law are highlighted in this section.

a) Thing of Value - Any gift, benefit, favor, service, gratuity, tickets or passes to an entertainment, social or sporting event, unsecured loan, other than those loans and forbearances made in the ordinary course of business, reward, promise of future employment, or honoraria or other item of monetary value.

The term, thing of value, **does not** include any of the following, provided that no particular course of action is required as a condition to the receipt thereof:

- A contribution reported under Chapter 5 of Title 17 or a contribution to an inaugural or transition committee.
- Anything given by a family member of the recipient under circumstances which make it clear that it is motivated by a family relationship.
- Anything given by a friend of the recipient under circumstances which make it clear that it is motivated by a friendship and not given because of the recipient's official position. Relevant factors include whether the friendship preexisted the recipient's status as a public employee, public official, or candidate and whether gifts have been previously exchanged between them.
- Greeting cards, items, services with little intrinsic value which are intended solely for presentation (such as plaques, certificates, and trophies), promotional items commonly distributed to the general public, and items or services of *de minimis* value.
- Loans from banks and other financial institutions on terms generally available to the public.
- Opportunities and benefits, including favorable rates and commercial discounts, available to the public or to a class consisting of all government employees.
- Rewards and prizes given to competitors in contests or events, including random drawings, which are open to the public.
- Anything that is paid for by a governmental entity or an entity created by a governmental entity to support the governmental entity or secured by a governmental entity under contract, except for tickets to a sporting event offered by an educational institution to anyone other than faculty, staff, or administration of the institution.

- Anything for which the recipient pays full value.
- Compensation and other benefits earned from a non-government employer, vendor, client, prospective employer, or other business relationship in the ordinary course of employment or non-governmental business activities under circumstances which make it clear that the thing is provided for reasons unrelated to the recipient's public service as a public official or public employee.
- Any assistance provided or rendered in connection with a safety or a health emergency.
- Payment of or reimbursement for actual and necessary transportation and lodging expenses, as well as waiver of registration fees and similar costs, to facilitate the attendance of a public official or public employee, and the spouse of the public official or public employee, at an educational function or widely attended event of which the person is a primary sponsor. This exclusion applies only if the public official or public employee meaningfully participates in the event as a speaker or a panel participant, by presenting information related to his/her agency or matters pending before his/her agency, or by performing an official's or public employee's attendance at the event is appropriate to the performance of his/her official duties or representative function.
- Payment of or reimbursement for actual and necessary transportation and lodging expenses to facilitate a public official's or public employee's participation in an economic development function.
- Hospitality, meals, and other food and beverages provided to a public official or public employee, and the spouse of the public official or public employee, as an integral part of an educational function, economic development function, work session, or widely attended event, such as a luncheon, banquet, or reception hosted by a civic club, chamber of commerce, charitable or educational organization, or trade or professional association.
- Any function or activity pre-certified by the Director of the Ethics Commission as a function that meets any of the above criteria.
- Meals and other food and beverages provided to a public official or public employee in a setting other than any of the above functions not to exceed for a lobbyist twenty-five dollars (\$25) per meal with a limit of one hundred fifty dollars (\$150) per year; and not to exceed for a principal fifty dollars (\$50) per meal with a limit of two hundred fifty dollars (\$250) per year. Notwithstanding the lobbyist's limits herein shall not count against the principal's limits and likewise, the principal's limits shall not count against the lobbyist's limits.
- Anything either (i) provided by an association or organization to which the state or, in the case of a local government official or employee, the local government pays annual dues as a membership requirement or (ii) provided by an association or organization to a public official who is a member of the association or organization and, as a result of his/her service to the association or organization, is deemed to be a public official. Further included in this exception is payment of reasonable compensation by a professional or local government association or corporation to a public official who is also an elected officer or director of the professional or local government association or corporation for services actually provided to the association or corporation in his/her capacity as an officer or director.
- Any benefit received as a discount on accommodations, when the discount is given to the public official because the public official is a member of an organization or association whose entire membership receives the discount.

b) Ethics Training - All public employees required to file the Statement of Economic Interests required by Section 36-25-14, Code of Alabama (1975), shall participate in an online educational review of the Alabama Ethics Law provided on the official website of the

commission. Newly hired employees hired have 90 days from the date s/he begins employment to complete the educational review. Completion of the educational review will automatically be reported to the Ethics Commission. The employee shall also forward evidence of educational review training to the ABC Personnel Division office for placement in the employee's work history file. (Section 36-25-4.2(e), Code of Alabama (1975))

c) **Use of Position for Personal Gain** - Section 36-25-5, Code of Alabama (1975), states:

1. No public official or public employee shall use or cause to be used his/her official position or office to obtain personal gain for himself/herself, or family member of the public employee or family member of the public official, or any business with which the person is associated unless the use and gain are otherwise specifically authorized by law. Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain.
2. Unless prohibited by the Constitution of Alabama of 1901, nothing herein shall be construed to prohibit a public official from introducing bills, ordinances, resolutions, or other legislative matters, serving on committees, or making statements or taking action in the exercise of his/her duties as a public official. A member of a legislative body may not vote for any legislation in which he or she knows or should have known that s/he has a conflict of interest.
3. No public official or public employee shall use or cause to be used equipment, facilities, time, materials, human labor, or other public property under his/her discretion or control for the private benefit or business benefit of the public official, public employee, any other person, or principal campaign committee as defined in Section 17-22A-2, Code of Alabama (1975), which would materially affect his/her financial interest, except as otherwise provided by law or as provided pursuant to a lawful employment agreement regulated by agency policy. Provided, however, nothing in this subsection shall be deemed to limit or otherwise prohibit communication between public officials or public employees and eleemosynary or membership organizations or such organizations communicating with public officials or public employees.
4. No person shall solicit a public official or public employee to use or cause to be used equipment, facilities, time, materials, human labor, or other public property for such person's private benefit or business benefit, which would materially affect his/her financial interest, except as otherwise provided by law.
5. No public official or public employee shall, other than in the ordinary course of business, solicit a thing of value from a subordinate or person or business with whom s/he directly inspects, regulates, or supervises in his/her official capacity.
6. A conflict of interest shall exist when a member of a legislative body, public official, or public employee has a substantial financial interest by reason of ownership of, control of, or the exercise of power over any interest greater than five percent of the value of any corporation, company, association, or firm, partnership, proprietorship, or any other business entity of any kind or character which is uniquely affected by proposed or pending legislation; or who is an officer or director for any such corporation, company, association, or firm, partnership, proprietorship, or any other business entity of any kind or character which is uniquely affected by proposed or pending legislation."

d) **Gifts and Gratuities from Outside Sources** - Section 36-25-7, Code of Alabama (1975), states:

1. No person shall offer or give to a public official or public employee or a member of the household of a public employee or a member of the household of the public official and none of the aforementioned shall solicit or receive anything for the purpose of corruptly influencing official action, regardless of whether or not the thing solicited or received is a thing of value.
2. No public official or public employee shall solicit or receive anything for himself/herself or for a family member of the public employee or family member of the public official for the purpose of corruptly influencing official action, regardless of whether or not the thing solicited or received is a thing of value.
3. No person shall offer or give a family member of the public official or family member of the public employee anything for the purpose of corruptly influencing official action, regardless of whether or not the thing offered or given is a thing of value.
4. No public official or public employee, shall solicit or receive any money in addition to that received by the public official or public employee in an official capacity for advice or assistance on matters concerning the Legislature, lobbying a legislative body, an executive department or any public regulatory board, commission or other body of which s/he is a member. Notwithstanding the foregoing, nothing in this section shall be construed to prohibit a public official or public employee from the performance of his/her official duties or responsibilities.
5. For purposes of this section, to act "corruptly" means to act voluntarily, deliberately, and dishonestly to either accomplish an unlawful end or result."

Employees shall not solicit or accept, directly or indirectly, any gift, gratuity, service, favor, or any other thing of monetary value from a person or entity who the employee knows or has reason to know:

- has or is seeking to obtain contractual or other business or financial relations with the Agency;
- conducts business or other activities which are regulated or monitored by the Agency, except as permitted by this section or by Agency directives; or
- has interest that may be or give the reasonable impression of being substantially affected by the performance or nonperformance of the employee's official duties.

Note: An employee's supervisor must be informed in the event a gift, favor, or other consideration is offered.

e) **Disclosure of Confidential Information for Personal Gain** - "No public official, public employee, former public official or former public employee, for a period consistent with the statute of limitations as contained in this chapter, shall use or disclose confidential information gained in the course of or by reason of his/her position or employment in any way that could result in financial gain other than his/her regular salary as such public official or public employee for himself or herself, a family member of the public employee or family

member of the public official, or for any other person or business." (Section 36-25-8, Code of Alabama (1975))

(24) Conflicts of Interest - In addition Section 36-25-5(a), Code of Alabama (1975) (See Alabama Ethics Law Obligations section in this chapter), Section 28-3-42(a), Code of Alabama (1975), states: "No person shall be eligible for any appointment who has any financial connection whatever with any person engaged in or conducting any liquor business of any kind or who holds stock or bonds therein and who has any pecuniary interest therein, nor shall any such person receive any commission or profit whatever from or have any interest whatsoever in the purchase or sales made by persons authorized by this chapter to manufacture, purchase, sell or otherwise deal in the liquor business."

CHAPTER ABC-4-11

EMPLOYEE SEPARATIONS

ABC-4-11-.01	<u>GENERAL</u>
ABC-4-11-.02	<u>RESIGNATION</u>
ABC-4-11-.03	<u>SEPARATION OF A PROBATIONARY EMPLOYEE</u>
ABC-4-11-.04	<u>TERMINATION OF A PERMANENT EMPLOYEE'S EMPLOYMENT</u>
ABC-4-11-.05	<u>TRANSFER TO ANOTHER STATE AGENCY</u>
ABC-4-11-.06	<u>SEPARATION OF A TEMPORARY APPOINTMENT</u>
ABC-4-11-.07	<u>SEPARATION OF A PROVISIONAL APPOINTMENT</u>
ABC-4-11-.08	<u>SEPARATION OF A CONDITIONAL APPOINTMENT</u>
ABC-4-11-.09	<u>LAYOFF</u>
ABC-4-11-.10	<u>RETIREMENT</u>
ABC-4-11-.11	<u>DEATH</u>

ABC-4-11-.01 GENERAL

An employee may separate from employment with the Agency by resignation, transfer to another department, expiration of temporary appointment, expiration of provisional appointment, end of a conditional appointment, removal during probation, termination, job abandonment, work force reduction (layoff), retirement, and death.

ABC-4-11-.02 RESIGNATION

(1) **Resignation by Letter** - Any employee must submit the intention to resign from the Agency by submitting a letter of resignation to the Administrator (use of the Notification of Resignation Form ([Exhibit 4-11](#)) is recommended). The employee is required to submit the written notice of resignation directly to his/her supervisor at least two (2) weeks prior to the effective date of the separation. Any exceptions to this stipulation require the approval of the Administrator or his/her designee. Employees failing to provide such notice jeopardize future employment consideration with the Agency.

Resignations are not considered final until such time as the Administrator, or designee, accepts the resignation by signing and dating the employee's written notice of resignation. Once the resignation becomes final, the terms and conditions of the resignation, to include an employee's request to rescind the resignation altogether, can only be modified with the Administrator's approval.

Individuals resigning from employment with the Agency in good standing are eligible for reemployment. Conversely, employees voluntarily resigning amid conflict (e.g., pending disciplinary action) will not be recommended for reemployment with the Agency.

(2) **Resignation by Job Abandonment** - An employee can also resign from State service through job abandonment. Job abandonment consists of three (3) days of unexcused, unreported absence from work. "Unreported absence from work" means that the Agency has no knowledge of the employee's location and has had no contact with the employee. In a job abandonment situation,

the Administrator will send a letter to the employee informing him/her that, among other things, their resignation has been accepted and they are not eligible for re-employment.

ABC-4-11-.03 SEPARATION OF A PROBATIONARY EMPLOYEE

A probationary employee is an “at will” employee whose employment with the State may be terminated by the Administrator at any time prior to attaining permanent merit system status. The Administrator will provide written notice of termination outlining, in general terms, the reason(s) for the termination. No predisciplinary process is required before the separation of a probationary employee. Moreover, an employee whose employment is terminated during their probationary period does not have appeal rights to the State Personnel Board.

As is the case with any removal situation included under this chapter, the Division Head shall forward a written recommendation through the ABC Personnel Director for presentation to the Administrator. The recommendation must be supported by adequate documentation (e.g., corrective action records). In consideration of the time and resources expended to identify and train a replacement, the Division Head should consider an extension of probation as an alternative action to termination.

ABC-4-11-.04 TERMINATION OF A PERMANENT EMPLOYEE’S EMPLOYMENT

The Administrator may terminate the employment of an employee for the good of State service for reasons stated in writing and presented to the employee. Prior to a final decision on termination of employment, permanent classified employees are allowed the opportunity to appear at a pre-disciplinary conference to respond to the charges or allegations before a reviewing officer. An employee may elect not to hold a pre-disciplinary conference and instead submit a written response to the associated charges or allegations.

In all cases, prior to making a final decision to terminate the employment of a permanent employee, the Administrator will consider the employee’s overall work history to include previous disciplinary actions, performance history, and length of service.

An employee who thinks that the termination of his/her employment from State service is unwarranted may file an appeal with the State Personnel Board within ten (10) business days from receipt of the written notice of termination of employment from the Administrator. This request must be made in writing and specifically address each and every charge or allegation and include a current address, telephone number, and, if possible, an email address and/or facsimile number.

At the conclusion of administrative hearing procedures, the State Personnel Board will have the opportunity to sustain or modify the termination of employment or order that the employee be reinstated. Reinstatement could be ordered either with or without back pay, or other conditions, and could include disciplinary action with or without lesser punishment. A failure to file an appeal within ten (10) business days will result in final termination from State service.

In addition to removal by an appointing authority, employees may be removed or disciplined based on charges filed with the State Personnel Director by any officer, citizen, or taxpayer of the State. Refer to the [Rules of the State Personnel Board](#) for associated procedures.

If any employee refuses or fails to appear before any court or judge, legislative committee, officer, board, or body authorized to conduct any hearing or inquiry, or refuses to testify or answer any question relating to the affairs of government of the State, or the conduct, of any State officer or employee on the grounds that his/her testimony or answer would tend to incriminate him/her or shall refuse to waive immunity from prosecution on account of any matter about which he/she may be asked to testify such conduct shall be cause for removal (Rules of the State Personnel Board Chapter 670-X-18-02).

ABC-4-11-.05 TRANSFER TO ANOTHER STATE AGENCY

Employees transferring to another State agency by voluntary demotion, lateral transfer, or appointment from a hiring register must contact ABC Personnel to ensure adherence with proper separation procedures. If a transfer to another State agency involves taking a demotion, and if the demotion requires a reduction in pay, the employee must confirm acceptance of the pay reduction in writing and forward a copy of such acceptance to the ABC Personnel Director.

An employee who desires to transfer to another State agency in the same classification must submit a letter requesting the Administrator's approval. A transfer to another State agency is not done at the sole discretion of the employee as it must be approved by the appointing authorities in both agencies involved as well as the State Personnel Director. Such approvals must be secured prior to the effective date of the transfer; thus, the notice of resignation must be issued at least two (2) weeks prior to the desired transfer effective date, which must be effective at the beginning of a pay period. Probationary employees are not eligible for a transfer to another State agency.

The transfer of an employee's accrued annual and/or sick leave balances are not automatically accepted by the receiving agency. Employees desiring to transfer to another State agency must resolve this issue with the receiving agency and provide ABC Personnel written notification of the arrangements. Should the receiving agency deny the transfer of annual and/or sick leave balances upon transfer, the employee forfeits the accumulated leave balances as payment is not authorized. The Agency does, however, remit payment for unused compensatory time and/or holiday leave balances.

Employees desiring to transfer to another State agency should consider that his/her seniority, as it pertains to a reduction in force (layoff), is negatively affected. Moreover, employees will have to restart eligibility requirements for leave benefits provided under the FMLA.

ABC-4-11-.06 SEPARATION OF A TEMPORARY APPOINTMENT

Temporary appointments cannot exceed 104 days actually worked, or 832 hours. Employees appointed on a temporary basis are "at will" employees, meaning they can be separated at any time during the appointment period. Should this situation become necessary, the Agency will attempt to provide the employee with advanced notice of at least one (1) week. Employees wishing to separate from employment prior to the expiration of his/her temporary appointment period must provide their immediate supervisor with written notification at least one (1) week prior to the effective date. Failure to provide such notice could jeopardize future employment consideration with the Agency.

ABC-4-11-.07 SEPARATION OF A PROVISIONAL APPOINTMENT

Provisional appointments are made when there is not an appropriate register from which a regular appointment can be made or when there are fewer than three (3) available candidates on register, none of which are African-American. Provisional appointments cannot be continued for more than 156 days actually worked, or 1248 hours.

The Agency is not obligated to hire the provisional appointee and can separate him/her from employment at any time during the appointment period. Should this situation arise, the Agency will attempt to provide the employee with at least one (1) week notice. Employees wishing to separate from employment must provide his/her immediate supervisor with written notification at least one (1) week prior to the effective date. Failure to provide such notice could jeopardize future employment consideration with the Agency.

ABC-4-11-.08 SEPARATION OF A CONDITIONAL APPOINTMENT

A conditional employee shall be separated from service upon the expiration of the special conditions that authorized his/her appointment, without further notice, process, or use of layoff procedures. For example, an employee who is conditionally appointed to account for the extended absence of a permanent employee will be separated immediately upon the absent employee's return to work. While the Agency will make every attempt feasible to find the conditional employee a comparable position, conditional appointees are not guaranteed continued employment after the condition for their employment expires.

ABC-4-11-.09 LAYOFF

The Administrator may layoff an employee whenever it is deemed necessary by reason of a shortage of work or funds, or the abolishment of a position or other material change in duties or organization. The order in which employees are laid off from the classified service shall be determined in accordance with the Rules of the State Personnel Board.

ABC-4-11-.10 RETIREMENT

(1) Appointments prior to January 1, 2013 (Tier I plan member) - Employees withdrawing from service upon or after attainment of age sixty (60), or a State policeman age fifty-two (52), who have ten (10) or more years of creditable service, or at least twenty-five (25) years of creditable service at any age, are eligible to apply for retirement benefits.

(2) Appointments on or after January 1, 2013 (Tier II plan member) - A member of the Employees' Retirement System (ERS) who has attained age sixty-two (62), or a State policeman age fifty-six (56), having ten (10) or more years of creditable service is eligible to apply for retirement benefits.

It is the employee's responsibility to notify the Retirement Systems of Alabama (RSA) of the intent to retire. To apply for retirement, an employee must complete and submit a Retirement Application Packet directly to the ERS. The Application for Retirement (Form 10) must be received by the ERS not less than thirty (30) days or more than ninety (90) days before the

effective date of retirement. The effective date of retirement must be the first day of a month.

A member who leaves State service prior to retirement may request a refund of contributions by completing and submitting to ERS a RSA Form 7, Notice of Final Deposit and Request for Refund.

Note: RSA forms can be obtained from the [RSA website](#).

ABC-4-11-.11 DEATH

The death of an individual while in State service requires immediate action by ABC Personnel and others to inform and assist the family members/beneficiaries of survivor benefits. To that point, ABC Personnel must be notified immediately upon the death of an employee.

ABC Exhibit 4-11



Notification of Resignation

TO: Administrator
ABC Board

DATE: _____

FROM: _____
Employee Name

SSN: XXX-XX-_____

CLASS/
JOB TITLE: _____
Example: ABC Sales Associate I

DIVISION/
LOCATION: _____
Stores Division Employees must include Store Number

SUBJECT: Voluntary Resignation

I hereby resign my position with the ABC Board effective close of business: _____

My reason(s) for resigning is/are as follows:

EXHIBIT ONLY

Authorized forms are published on Agency website

My signature acknowledges that my decision to resign is being made of my own free will and volition and without any coercion or outside influence. I understand that in order to ensure favorable consideration for reemployment with the ABC Board I am required to provide at least a two (2) weeks advanced notice and resign in good standing without the prospect of pending disciplinary action.

I understand that if I am resigning to accept another position in State service, I must coordinate with the ABC Personnel Division Office to ensure adherence with proper separation procedures as outlined under ABC Personnel Policies and Procedures Chapter ABC-4-12 Employee Separations.

(Employee's Signature)

(Receiving Supervisor's Signature)

DISTRIBUTION OF COPIES: Original - ABC Personnel Director, Copies to Division Head, Immediate Supervisor and Employee.

CHAPTER ABC-4-12

EMPLOYEE ASSISTANCE PROGRAM

- ABC-4-12-.01 [PURPOSE](#)
ABC-4-12-.02 [ELIGIBILITY AND BENEFITS](#)
ABC-4-12-.03 [PROCEDURES](#)

ABC-4-12-.01 PURPOSE

The Agency has an increasing awareness of how an employee's job performance can be negatively impacted by personal problems such as substance abuse, health problems, home and family problems, depression and other mental/emotional problems, and financial difficulties. Recognizing the need to help employees in coping with such problems, even if their work performance is not negatively affected, the Agency participates in the State Employee Assistance Program (EAP). The EAP is a part of the Alabama Department of Finance, Division of Risk Management (DORM), with professional services provided by Behavioral Health Systems, Inc. (BHS).

The EAP is a professional service available to all employees and their dependents that provides confidential assessment, referral, short-term counseling, and community resources. The EAP is designed to help employees become more effective and efficient in their jobs by addressing problems that are likely to affect their family life and/or job performance, including:

- Marital/Family
- Stress and Financial Management
- Grief/Loss
- Depression
- Eating Disorders
- Anxiety
- ADHD/ADD
- Interpersonal Relationships
- Substance Abuse
- Work Related Problems

ABC-4-12-.02 ELIGIBILITY AND BENEFITS

All Agency employees and their dependents are eligible to participate in the program. An initial assessment and up to two (2) follow-up sessions are available annually at no cost to the employee. Additional sessions or treatments beyond the three (3) EAP provided visits must be covered through the State-provided health insurance. A BHS Care Coordinator will assist employees in transitioning to a medical plan or community resources.

Employees who notify their supervisor of an appointment with BHS through the EAP will be allowed time off without being required to use leave for the initial visit. All other EAP visits will require the employee to use leave following established leave approval procedures.

The program is not intended to intrude upon the personal lives of employees and their families against their wishes. Procedures are in place to ensure confidentiality of employment and medical records. Employee involvement will remain confidential unless the employee signs appropriate release/consent forms authorizing the program coordinator to provide specific

information in confidence to specified persons or organizations. Records of any participation will not become part of the employee's personnel file.

Employees who participate in the EAP will not be given preferential treatment, nor will they receive any special considerations by the Agency. EAP participation will not immunize an employee against discipline, including termination, by reason of an infraction of general work rules.

An employee has the right to refuse referral into the program and may discontinue participation at any time without fear of reprisal from supervisory staff.

ABC-4-12-.03 PROCEDURES

(1) **Self-Referral** - An employee or family member wishing to use the EAP on a self-referral basis should call BHS at (800) 245-1150 or (205) 879-1150 to schedule an appointment. If an employee chooses to contact BHS directly and not inform his supervisor, the employee must use leave for any time off used for appointments, to include the initial assessment, following established leave approval procedures. In such cases, information, including the employee's enrollment in the program, will not be provided to the Agency.

(2) **Supervisory Referral** - A supervisory referral is a resource that helps supervisors assist employees having personal or professional problems that negatively impact their work, or have the potential to do so. The employee may exhibit an unacceptable deterioration in productivity, serious conflicts with co-workers, observable signs and symptoms of substance abuse, or other mental health issues that affect job performance. Depending on the seriousness of the issue, a supervisory referral can be made on an informal or formal basis. Reference [Exhibit 4-12A](#) for additional information about the supervisory referral process.

(a) **Informal Referral** - A supervisor can informally recommend EAP to a subordinate employee upon learning s/he is experiencing difficulties that have had little or no negative impact on job performance and/or work habits. This type of referral can result from the employee confiding in the supervisor regarding personal problems or through direct observations made by the supervisor. Since the referral is done on an informal basis, the supervisor functions in a support role helping the employee understand and participate in the EAP.

(b) **Formal Referral** - A supervisor can formally recommend EAP for a subordinate employee in an attempt to resolve personal issues that appear to contribute to deficiencies in job performance and/or work habits. To initiate this process, the supervisor making a formal referral should contact the ABC Personnel Director, or designee, to discuss the issue. If a formal referral is deemed appropriate, the supervisor will complete a Supervisor Referral Form ([Exhibit 4-12B](#)) and present it to the employee during a formal, confidential meeting. In addition to notifying the employee of the reason for the supervisory referral, the Supervisor Referral Form has an employee acknowledgement section that outlines employee responsibilities and authorizes BHS to release information to specified parties. Employee refusal to participate should be documented by the supervisor.

Note: Regardless of the type of referral, employee participation in the EAP is voluntary and participation may be discontinued at any time. Employees who participate in the EAP will not be given preferential treatment, nor will they receive any special considerations by the Agency. EAP participation will not immunize an employee against discipline, including termination, by reason of an infraction of general work rules.

For access to the program, contact the BHS Care Coordinator at (800) 245-1150 or (205) 879-1150 or visit the BHS website at www.behavioralhealthsystems.com. The member password is DORM.

ABC EXHIBIT 4-12A

Behavioral Health Systems, Inc.

YOUR EAP AND SUPERVISORY REFERRALS

What is an EAP?

The Employee Assistance Program, or EAP, is a employer-provided benefit that helps employees identify and find solutions to personal and work-related problems. The State of Alabama's EAP is administered and managed by the Department of Finance's Division of Risk Management (DORM) through Behavioral Health Systems (BHS). Through the EAP, supervisors have access to an effective management tool called a supervisory referral.



What is a supervisory referral?

A supervisory referral is a resource that helps supervisors assist employees who may be having personal or professional problems that are affecting their work. The employee may exhibit an unacceptable deterioration of productivity, serious conflicts with coworkers, observable signs and symptoms of substance abuse or other mental health issues that affect their performance on the job.

How does the supervisory referral process work?

Supervisors begin by downloading the "Supervisor's Referral Form" from the State's internet. Then, the supervisor will call BHS to speak with the designated Care Coordinator about the referral. After talking with the Care Coordinator, the supervisor will fill out the referral form and schedule a meeting with the employee. During the meeting, the following should take place:

- Discuss why the employee is being referred to EAP.
- Explain what the EAP is (including its assurance of confidentiality), if the employee isn't aware.
- Tell the employee that it is his/her responsibility to call BHS within five business days to schedule an appointment.
- Instruct the employee to read the Acknowledgement section and sign the form — an unsigned form should not be submitted.
- Impress upon the employee the serious nature of the referral and encourage him/her to use the opportunity to make positive changes.



After meeting with the employee, the supervisor will ensure that the referral form is filled out completely, including the Acknowledgement section that should be signed by the employee and supervisor. The supervisor will fax the form, along with a copy of the employee's job description and all documents supporting the reason for the referral, to BHS.

(continued next page)

When should supervisors use a supervisory referral?

Employees usually respond positively when problems (such as absenteeism, punctuality, job performance, insubordination, etc.) are brought to their attention in an informal manner by their immediate supervisor. If this first step has been ineffective, departments or divisions that have a disciplinary process in place should take care to follow their internal administrative policy. However, in cases when employees have still not improved, the supervisor should consider using the supervisory referral process.



When should a supervisory referral be used as the first measure to assist an employee?

In some cases, it may be appropriate to use a supervisory referral first. An employee who has observable substance abuse issues that are interfering with his/her job duties is a good example. If at any time the supervisor is concerned for the employee's safety or the safety of others, the supervisor should contact BHS immediately.

What happens after the employee is referred?

The employee calls BHS after the initial paperwork is completed. If the employee does not contact BHS within five days, the Care Coordinator will call the supervisor to make him/her aware. When the employee calls BHS, the Care Coordinator will schedule an appointment with a BHS provider. Basic information about the initial appointment will be communicated to the supervisor.



Upon completion of the initial assessment, a verbal report will be made with a written report to follow and will be submitted to the supervisor. It will include any recommendations made by the provider to remedy the situation. Because each employee situation is different, no timeframe for completion of the supervisory referral process can be determined; however, there is ongoing monitoring and communication between BHS and the supervisor throughout the course of the referral.

The supervisor can contact the BHS Care Coordinator at any time during the referral process if he/she has any questions relevant to an employee's participation in the program. Ψ

If you would like more information about the supervisory referral process, visit www.riskmgt.alabama.gov or contact BHS at 800-245-1150.



ABC EXHIBIT 4-12B

Employee Assistance Program
Supervisor's Referral Form

Employee Name:	<input type="text"/>	Home Phone:	<input type="text"/>
Position:	<input type="text"/>	Office Phone:	<input type="text"/>
Referring Supervisor:	<input type="text"/>	Office Phone:	<input type="text"/>
County or State Office/Division:	<input type="text"/>		

Observation: (check the reasons for warranting the referral)

A. Absenteeism and Punctuality

- Misses work 1 day every 2 weeks
- Misses work 1 day every week
- Misses work 2 or more days/week
- Unusual excuses for absences
- Leaves the work place without authorization
- Difficult to locate at work
- Extended breaks
- Extended lunch periods
- Early departures from work
- Late arrivals at work

B. Job Performance

- Volume of work has declined
- Errors of work have increased
- Working patterns are erratic
- Failure to meet schedules
- Forgetful of assignments
- Poor concentration in performing tasks

C. Communication and Relationships

- Avoids conversations and discussions
- Unable to express thoughts clearly
- Is not patient with others
- Is quick tempered
- Unable to get along with others
- Usually critical of others
- Spends too much time in conversations with others

EXHIBIT ONLY

Authorized forms are published on Agency website

D. Supervision Responsiveness

- Avoids supervisor
- Unusually sensitive to advice
- Does not follow recommendations
- Unusually critical of supervisor
- Unusually argumentative with supervisor

E. Job Interest and Judgement

- Loss of interest in job
- Disregard for policies, rules, procedures
- Not concerned with safety of self and others

F. Narrative Description (if needed)

EXHIBIT ONLY

Authorized forms are published on Agency website

ACKNOWLEDGMENT: It is understood that the information above is confidential and has been compiled to assist the employee:

Supervisor's Signature: _____ Date: _____

Employee's Signature: _____ Date: _____

As the employee, my signature authorizes the release of this referral and the information herein to:

Assessment Individual: _____

Print Form

CHAPTER ABC-4-13

ON-THE-JOB INJURY/OCCUPATIONAL ILLNESS

ABC-4-13-.01	GENERAL
ABC-4-13-.02	DEFINITIONS
ABC-4-13-.03	COVERAGE ELIGIBILITY
ABC-4-13-.04	PROCEDURES
ABC-4-13-.05	LIGHT/MODIFIED DUTY
ABC-4-13-.06	LOST TIME BENEFIT
ABC-4-13-.07	USE OF NON-APPROVED GATEKEEPER PHYSICIAN
ABC-4-13-.08	DISPUTE RESOLUTION

ABC-4-13-.01 GENERAL

The State Employee Injury Compensation Trust Fund (SEICTF) was created by the Alabama Legislature during the 1994 Regular Session of the Alabama State Legislature. SEICTF is administered according to the administrative rules developed by the State Department of Finance Division of Risk Management (DORM). The purpose of SEICTF is to provide indemnity and medical benefits for injuries and/or occupational illness/disease incurring on and relating to the employee's job. Key features of the SEICTF program include medical costs coverage (medical co-pays and deductibles are covered along with all reasonable and necessary medical expenses); lost time benefits; disability benefits (degree of disability or vocational loss is based on loss of access to jobs and loss of income as a result of a covered injury); and death benefits (maximum \$5,000 for burial expenses and eligible dependent compensation up to 500 weeks).

ABC-4-13-.02 DEFINITIONS

(1) **Accident** - Unexpected or unforeseen event, happening suddenly and violently, with or without human fault, and producing at the time of injury damage to the physical structure of the body or to an artificial member of the body by accidental means.

(2) **Essential Function** - An essential function means the fundamental duties of the employment position the individual holds or desires. The term "essential function" does not include the marginal functions of the job. A job function may be essential for any of several reasons, including, but not limited to the following:

- The position exists to perform the function.
- There are a limited number of other employees available to perform the function, or among whom the function can be distributed.
- A function is highly specialized, and the person in the position is hired for special expertise or ability to perform it.

(3) **Light or Modified Duty** - Light/Modified duty is defined as tasks assigned to the employee that are not the employee's regular duties or modified regular duties that exclude/limit certain required tasks. *Such duty is only authorized for job related injury/illness.*

(4) **Medical Emergency** - A sudden and unexpected onset of a medical condition that is so severe that failure to receive immediate treatment could result in permanent damage or danger to health; serious impairment to bodily functions or serious permanent dysfunction of any bodily function, organ, or part; or other serious medical consequences.

(5) **Occupational Illness** - An occupational illness is a disease arising out of and in the course of employment which is due to hazards in excess of those ordinarily incident to employment in general and is peculiar to the occupation in which the employee is engaged.

(6) **On-the-Job Injury** - An on-the-job injury (hereinafter "OTJI") is an injury to an employee caused by an accident arising out of and in the course of his employment at a place where s/he may reasonably be, and while he is reasonably fulfilling the duties of his employment and engaged in doing something incident to it.

ABC-4-13-.03 COVERAGE ELIGIBILITY

For the employee to be eligible for SEICTF benefits, the employee must satisfy concurrent eligibility and compensability regulatory conditions.

The first set of conditions for eligibility is:

- The employee must have an accident.
- The injury/illness must arise out of the employment and in the course of the employment. Therefore, workers are only covered while engaged in or about the premises where their services are being performed or where their service requires their presence at the time of the accident and during the hours of service as workers. Only injuries by accident during performance of the employee's duties while under the right of control of the Agency shall be considered as arising out of and in the course of employment.

The second set of conditions is:

- The employee must be in full-time, paid status of the Agency;
- The employee must be covered through the State Employees' Insurance Board's medical insurance plan; and
- The employee's wages must be paid through the State Comptroller.

ABC-4-13-.04 PROCEDURES

EMPLOYEES MUST REPORT AN OTJI TO HIS/HER SUPERVISOR IMMEDIATELY AFTER ITS OCCURRENCE WITHOUT REGARD FOR SEVERITY OR WHETHER OR NOT MEDICAL TREATMENT IS REQUIRED. Once the employee has reported an OTJI, the supervisor is responsible for ensuring adherence with SEICTF procedures for reporting an OTJI. It is not the role of a supervisor to decide if an employee's injury was/was not suffered in the line and scope of employment. Any concerns a supervisor has should be directed to the appropriate contact within the ABC Personnel Division.

Agency employees failing to adhere with procedures described herein jeopardize an employee's coverage and benefits under SEICTF and, as a result, could be subject to disciplinary action.

(1) Employee Declination of Medical Treatment for an OTJI - Quite often, accidents occur in the workplace where an employee suffers an OTJI but declines medical attention (e.g., a case of merchandise falls on an employee's foot while unloading the truck). Nonetheless, the employee is required to report the OTJI immediately to his/her supervisor. An incident/injury that seems minor initially could eventually become serious enough that medical treatment is necessary. In such a scenario, if a supervisor and/or employee shunned their responsibility to properly document and report the OTJI within established time parameters, the employee is not eligible for SEICTF benefits (e.g., medical costs coverage, light duty assignment, or lost time benefits).

The following is a chronological listing of the responsibilities for the employee and supervisor after an employee has experienced an OTJI but declines medical treatment:

1. Employee suffers an OTJI.
2. Employee and/or witness(es) immediately notify supervisor.
3. Supervisor completes the Employee's First Report of Injury or Occupational Disease Form (FRI) (SEICTF Form 1). Supervisors have the option of completing and submitting SEICTF Form 1 electronically using the DORM's website (www.riskmgmt.alabama.gov) or faxing it directly to SEICTF.
4. Employee completes the Accident Report/Employee's Statement Form.
5. Supervisor sends completed forms to SEICTF and ABC Personnel within 24 hours of the OTJI, but in no case later than five (5) days or coverage will be denied.

Current versions of SEICTF forms are required to avoid complications in the processing of an OTJI claim. Current forms should be accessed using [DORM's website](#), which can be accessed using the Employee Section of ABC Board website (www.abc.alabama.gov). Supervisors have the option of completing and submitting the FRI directly to SEICTF from the DORM website. All other forms can be completed online, printed, signed, and faxed/mailed to SEICTF and ABC Personnel.

In rare situations, the supervisor may recommend that an employee seek medical treatment for an OTJI even though the injured employee declines such treatment (reference the section entitled [OTJI Requiring Medical Treatment](#) for associated procedures). This determination should be based on the supervisor's observation and belief that the injured employee presents a threat to his/her safety and/or that of co-workers and the general public. If the injured employee continues to refuse medical treatment, the supervisor may direct the employee to leave work until s/he receives a release from a physician indicating fitness for duty.

(2) OTJI Requiring Medical Treatment - First and foremost, an employee's safety and wellbeing takes priority. Medical treatment for an injured employee should not be delayed to complete SEICTF paperwork as it can be completed after the employee's immediate medical needs have been addressed.

The following is a chronological listing of employee/supervisor responsibilities for an OTJI requiring medical attention:

1. Employee suffers an OTJI.
2. Employee and/or witness(es) immediately notify supervisor.

3. Supervisor completes the Authorization for Initial Treatment and Pharmacy Form (SEICTF Form 3). The employee takes the SEICTF Form 3 to the nearest Gatekeeper physician (current listing can be accessed on the [DORM website](#)) and pharmacy to authorize treatment without responsibility for co-pay or deductible payments. The Gatekeeper physician will complete his portion of SEICTF Form 3 during the initial visit. The employee must return the completed SEICTF Form 3 to his/her supervisor.

Note: Section [ABC-4-13-.07](#) of this chapter explains the consequences for using a non-approved Gatekeeper physician.

4. Supervisor completes the FRI (SEICTF Form 1). Supervisors have the option of completing and submitting SEICTF Form 1 electronically using the [DORM website](#) or faxing it directly to SEICTF.
5. Employee completes the Accident Report/Employee's Statement Form. Employees requiring immediate medical attention can complete the form as soon as they are able.
6. Supervisor sends completed forms to SEICTF and ABC Personnel within twenty-four (24) hours of the OTJI, but in no case later than five (5) days or coverage will be denied. SEICTF Form 1 and SEICTF Form 3 must be submitted within this timeframe regardless of whether the Accident Report/Employee's Statement has been completed.
7. Employees requiring medical attention who are out of work longer than three (3) working days must complete the Employee Election for Lost Time Benefits Form (SEICTF Form 2). A selection must be made for payment options A and B. *Delay in option selection will delay compensation payment to the employee.* The completed SEICTF Form 2 should be scanned/ emailed to the appropriate ABC Personnel Division contact.

Note: More detailed information about the lost time benefit can be found in [ABC-4-13-.06](#) of this chapter.

(3) Medical Emergency - In the case of a medical emergency, the employee should seek immediate care at the nearest medical facility with the supervisor being notified as soon as practicable. Follow-up care after the emergency must be coordinated through a Gatekeeper physician. Once notified of the OTJI, the supervisor becomes responsible for ensuring adherence with procedures listed in the section entitled [OTJI Requiring Medical Treatment](#).

(4) Blood/Body Fluid Exposure - Employees exposed to blood, body fluid, or other potentially infectious material must, in addition to other forms, complete the Blood/Body Fluid Report Form. To determine if the employee was exposed to a bloodborne pathogens it may be necessary to test his/her blood for HIV (virus which causes AIDS), HBV (virus which causes Hepatitis B), and/or HCV (virus which causes Hepatitis C). Should this be necessary, the results of the tests will be kept confidential and related costs will be paid by SEICTF. If an employee refuses initial treatment, baseline blood testing, and/or release of test results for HIV, HBV, and HCV, SEICTF will have no responsibility to provide coverage. Detailed instructions for supervisors can be found on the [DORM website](#).

(5) Vehicle/Automobile Accident - Employees injured while driving a vehicle or who are involved in an automobile accident while on duty should, in addition to OTJI reporting procedures already described, obtain a copy of the police report as soon as possible and submit it to his/her

supervisor. The supervisor should fax a copy of the police report immediately to SEICTF at (334) 223-6170.

ABC-4-13-.05 LIGHT/MODIFIED DUTY

The only scenario in which an employee can be offered a light/modified duty assignment is in connection with an OTJI. If the employee has activity restrictions upon returning to work, as indicated by the Gatekeeper physician on the Authorization for Initial Treatment and Pharmacy Form (SEICTF Form 3), the supervisor will review the restrictions to determine if a reasonable accommodation can be made. The supervisor should immediately notify ABC Personnel of the determination in writing. ABC Personnel will subsequently notify the appropriate contact at SEICTF. Prior to the employee's return to work, the supervisor and employee should review the modified job responsibilities to ensure an understanding.

The employee must clearly communicate doctor appointments and medical status updates with his/her supervisor. To ensure this occurs, the employee must present his/her supervisor a return-to-work slip from the treating physician immediately after each appointment. If the treating physician changes the activity restrictions, the supervisor should re-evaluate the job duties and make changes as needed. The supervisor should provide updates to ABC Personnel as they become available.

Employees are required to follow Agency leave procedures for absences associated with an OTJI requiring medical care. Employees authorized light duty must report to work before and/or after each appointment, depending on his/her work schedule and the time of a doctor appointment.

ABC-4-13-.06 LOST TIME BENEFIT

An employee who suffers an OTJI that results in a Gatekeeper physician placing him/her out of work more than three (3) working days is entitled to a lost time benefit. The following is a general outline of the criteria associated with the lost time benefit:

(1) Waiting Period - There is a three (3) workday period for which no lost time benefit is paid, which is normally covered through the use of the employee's accumulated leave and/or leave without pay. Should the lost time reach twenty-one (21) calendar days, the initial three (3) work day period is then paid if two-thirds pay has been elected.

(2) Option to Use Sick/Annual Leave - The injured employee may choose to use his/her accumulated leave. Employees selecting this option can elect SEICTF two-thirds lost wage benefit once his/her leave is exhausted, or whenever the employee chooses to accept benefits as opposed to using leave. Employees electing to use their own leave will continue to be paid through the State payroll system; normal retirement, leave, and payroll procedures will apply; and usual net pay and semi-monthly payroll deductions will remain the same. The State Comptroller's Office is notified of the amount considered non-taxable with the appropriate amount being reflected on the employee's annual W-2 statement.

(3) Option for Lost Time Benefit - The employee may choose to receive compensation at a two-thirds rate, subject to the maximum compensation rate in effect at the time of the injury. Employees electing the lost time benefit will be paid directly by DORM via SEICTF warrant with no

deductions being withheld for State or Federal Income Taxes, Social Security or Medicare, dependent healthcare coverage, or authorized payroll deductions. Compensation payments issued by SEICTF are non-taxable and are not reflected on the employee's annual W-2 statement. Leave is accumulated at two-thirds of the normal rate and the employee stays on the State payroll system as long as permissible. The State continues to pay 100% of the employer's contribution to the State Employee Insurance Plan; however, the employee must pay employee and dependant coverage separately through coordination with SEIB.

(4) Duration of Payments - Payments for temporary disability continue as long as the employee cannot work as a result of the covered OTJI and is supported by medical and vocational opinions, subject to the rules and regulations.

All elections must be made by the employee and received by SEICTF before any compensation benefits are paid (done through the use of SEICTF Form 2). An employee may change his/her election before the beginning of the next payroll period but not retroactively. Used leave cannot be restored by SEICTF.

ABC-4-13-.07 USE OF NON-APPROVED GATEKEEPER PHYSICIAN

If the employee does not wish to see an approved Gatekeeper physician or does not wish to receive SEICTF benefits, supervisors must indicate this on Section 17 of the FRI (SEICTF Form 1) and contact SEICTF at (800) 388-3406. Obtaining medical treatment from non-approved Gatekeeper physicians typically results in ineligibility or termination of SEICTF benefits.

Employees who see a non-approved Gatekeeper physician are responsible for paying any co-pays or medical expenses incurred in such treatment. In order to return to work, the employee will be required to present his/her supervisor with a Fitness for Duty Form from the non-approved Gatekeeper physician that certifies the employee's ability to perform all the essential functions of his/her job. Employees deemed ineligible for SEICTF benefits due to his/her refusal to use a Gatekeeper physician are not eligible for a light/modified duty assignment.

ABC-4-13-.08 DISPUTE RESOLUTION

On occasion, a disagreement may arise between the injured worker and SEICTF relating to compensability of an injury, the nature of treatment for the injury, or the amount of benefits payable for the injury under the SEICTF Program. Should this occur, mediation, a Review Board, or an Administrative Law Judge (ALJ) is available to consider the merits of the issue(s) raised and provide a ruling to resolve the dispute(s). The purpose of this process is to ensure fair and equitable administration of benefits to injured employees.

For disputes as to compensability or amount of compensation, the employee may contact SEICTF at (334) 223-6162. The employee will be referred to a Claims Examiner who will provide guidance on how to present the issue and will provide the employee with an appropriate form to present facts to the Review Board or ALJ. The Review Board panel meets as required and there will be no undue delay in the Review Board's response.

CHAPTER ABC-4-14

CLASSIFICATION AND PAY PLAN ADMINISTRATION

ABC-4-14-.01	GENERAL
ABC-4-14-.02	CLASSIFICATION PLAN
ABC-4-14-.03	PAY PLAN
ABC-4-14-.04	SALARY ADMINISTRATION

ABC-4-14-.01 GENERAL

The State Personnel Director is statutorily obligated to administer and maintain the Classification and Pay Plan subject to approvals by the State Personnel Board. The ABC Personnel Director is responsible for ensuring Agency compliance with guidelines established under such rules. Division Heads are required to coordinate with the ABC Personnel Director to coordinate all personnel actions associated with the Classification and Pay Plan.

ABC-4-14-.02 CLASSIFICATION PLAN

The Classification Plan is made up of approximately 1,350 job classifications. Every position in State service is allocated to one of the classifications established by the Classification Plan. Positions allocated to a classification are deemed substantially similar with respect to difficulty, responsibility, and character of work; require generally the same kind and amount of training and experience for proper performance; and merit approximately equal pay. A class specification is composed for each classification to provide a rationale for the grouping of positions for pay purposes.

A Position Classification Questionnaire (Form 40) for each position must be composed and maintained by the Agency. The Form 40 is a position control tool that identifies the specific duties and responsibilities of a position. The information from the Form 40 is analyzed by the State Personnel Department Classification and Pay Division (hereinafter "Class and Pay") to determine the most appropriate allocation within the Classification Plan. A Form 40 and instructions and suggestions for filling it out are included as [Exhibit 4-14](#).

(1) Establishing a New Position - If additional staff is necessary to maintain efficient operations, a Division Head should coordinate with the ABC Personnel Director to gauge the feasibility of establishing an additional position. If deemed appropriate, a memorandum of justification and a Form 40 for the new position must be prepared by the Division Head and forwarded through the ABC Personnel Director to the Administrator. Approved requests will prompt the ABC Personnel Director to submit a formal request to the State Personnel Director or his/her designee. Staff from Class and Pay will review the information to determine the appropriateness of the request and, if additional information is required, may perform a desk audit of the job. The Class and Pay Division Manager will notify the Administrator of the final decision in writing.

(2) Reallocating an Existing Position to another Classification - If the duties and responsibilities of a position have changed significantly and are more in line with another job classification than that to which it is assigned, the position may be reassigned to another job classification through a process called reallocation. A memorandum of justification and a Form 40 for the position must

be prepared by the Division Head and forwarded through the ABC Personnel Director to the Administrator. Approved requests will prompt the ABC Personnel Director to submit a formal request to the State Personnel Director or his/her designee. Staff from Class and Pay will review the information to determine the appropriateness of the request and may perform a desk audit of the job if more information is needed. The Class and Pay Division Manager will notify the Administrator of the final decision in writing.

If the position being reviewed is filled, it is necessary to determine if the incumbent may be reallocated along with the position. The Rules of the State Personnel Board state that an incumbent may be reallocated if s/he has been performing the duties that are the basis for reallocation for three (3) months or more and if his/her name is among the upper one-half of those on the competitive eligible list as of the date of its establishment OR the incumbent has been performing the duties that are the basis for the reallocation for five (5) years or more and his/her name appears on the eligible list.

If no register exists for the classification to which a position is being reallocated, the incumbent may be reallocated pending examination. When the examination is given for the particular classification, the incumbent will be required to qualify under the reallocation rules of the State Personnel Board prior to receiving permanent status in the job classification.

If an employee is reallocated, s/he is not eligible for a promotional increase unless such increase is necessary to place him/her at the minimum of the new salary range. The employee is reallocated into the new job classification with status, meaning s/he is not required to complete a probationary/working test period. If the employee's salary rate remains the same after the reallocations, his/her annual raise date will not be modified.

(3) Updating or Changing Duties - When the duties/responsibilities of a position have changed substantially, a new Form 40 must be completed and submitted to the ABC Personnel Director, who will forward it to the State Personnel Department.

(4) Abolishing a Vacant Position or Classification - Positions and/or classifications that are no longer needed can be abolished. Such action can be initiated through a written request to the State Personnel Director by the Agency or the State Personnel Director may abolish positions/classifications for a justifiable reason (e.g., the classification has not been used for an extended period of time, state no longer performs a function for which a classification was originally established).

ABC-4-14-.03 PAY PLAN

The Pay Plan is composed of 195 pay ranges. Each pay range has a minimum and maximum semi-monthly rate that is split apart into steps (approximately 2.5% variation between each step). Employees progressively move through a pay range using the steps in accordance with rules governing salary rate advancement.

The State Personnel Director assigns classifications to pay ranges using prevailing rates of pay in outside private and public employment for comparable work, recruiting and turnover experience, the relative value and importance of classifications in the State service, the maintenance and benefits received by State employees, the State's financial condition and economic policies, and

other relevant factors. The State Personnel Director is responsible for recommending any amendment to the Pay Plan that will correct inequities or bring about improvements in salary administration either on his/her own initiative or at the direction of the State Personnel Board or of the Governor, or upon request of the Administrator.

ABC-4-14-.04 SALARY ADMINISTRATION

(1) **Salary Rate Upon Initial Appointment** - The salary rate of a new employee upon entrance into State service shall normally be the minimum pay rate for the classification in which they are appointed. In the event that it should prove impossible to obtain qualified personnel at such rate, the Administrator may recommend and the State Personnel Director may approve a hiring rate above the minimum rate but not to exceed the maximum pay rate assigned to the classification.

(2) **Salary Rate Upon Promotion** - The salary rate of an employee who is promoted may be increased to that rate in the higher range that will provide an increase of up to two (2) steps (about 5%). An employee cannot be paid less than the minimum rate of the higher range. The promotional salary increase shall be effective on the date of promotion, which shall always be at the beginning of a pay period. No annual raise shall be made during an employee's probationary period.

In the event that the employee does not successfully complete probation and is returned to the former position, the rate of the employee shall be adjusted to the rate paid before promotion or to that higher rate the employee might have achieved had the anniversary date occurred during the probationary period in the higher position. In this case, the employee's anniversary date remains the same as it was prior to the promotion.

(3) Performance Salary Advances

(a) **Upon Completion of Probation** - An employee who successfully completes a probationary period may be granted a probationary raise of up to two (2) steps effective the first day of the first full pay period after probation ends. An employee can be granted a two (2) step raise if his/her overall service rating is in the "Meets Standards" category.

An employee appointed from the reemployment register at the third step of the range or above will not be eligible for a probationary raise increase.

(b) **Annual Consideration** - Every employee shall be considered for a performance salary advance (annual raise) each year on the anniversary date of the last salary increase. The Administrator shall determine the amount of the increase to be granted, if any, in accordance with the following table.

Overall Service Rating Category	Salary Increase
Does Not Meet Standards	0 Steps
Partially Meets Standards	0 Steps
Meets Standards	1 Step
Exceeds Standards	2 Steps
Consistently Exceeds Standards	2 Steps

The granting of across-the-board cost-of-living raises by the Legislature does not change the consideration date for performance salary advances.

(c) Special Merit Raise - Any recommendation for a salary increase in less than twelve (12) months, or for an amount greater than the State Personnel Board rules governing performance increases permits, is considered a Special Merit Raise. The State Personnel Board considers the granting of Special Merit Raises to be justified by extraordinary performance beyond that exhibited at an Exceeds Standards or Consistently Exceeds Standards level. Probationary employees are not eligible for Special Merit Raises.

As with other raises, Special Merit Raises must stay within the salary range assigned to the employee's classification. The granting of a Special Merit Raise changes the employee's annual raise date.

(4) Salary Rate Upon Return to Duty After Resignation - The salary rate of an employee who returns to duty after a voluntary resignation can be appointed to a salary closest to that earned when s/he separated, without reduction in pay.

(5) Salary Rate of Incumbents in a Classification Reassigned to a Higher Salary Range - When a classification is reassigned to a higher salary range, the salary rate of each incumbent shall be adjusted at least to the minimum rate of the higher range, or may be adjusted to not more than the corresponding rate in the new range closest to the salary at the time of the reassignment, without a reduction in pay.

(6) Salary Rate of Incumbent in a Position Reallocated to a Classification in a Higher Salary Range - In the event that a position is reallocated to a higher classification by reason of significant change in duties and increase in responsibility or complexity, the salary rate of the incumbent shall be adjusted to the minimum rate of the range for the higher classification or may be adjusted to the rate in the new range closest to the former rate of the incumbent, without a reduction in pay.

(7) Salary Rate Upon Demotion - When an employee is demoted, the salary must be reduced to at least the maximum rate for the new classification. If the employee's present salary falls within the range for the lower classification, the salary may be decreased at the time of demotion, at the request of the appointing Administrator.

(8) Salary Reduction Within Range - The Administrator may reduce the salary of any employee to a lower rate in the range for the position with approval of the State Personnel Board. In such cases, at least ten (10) days before the recommended action is to take place, the Administrator shall notify the employee and submit the recommendation in writing with the reasons for the salary reduction to the State Personnel Director. When such action is approved, the annual raise date of the employee shall be changed to the effective date of the salary reduction.

(9) Limitations on Available Funds - Notwithstanding the provisions of this rule, no salary action shall be taken unless authorized funds therefore are available. In the event that any salary action provided for in this rule cannot be taken because of unavailability of funds, the Administrator shall so advise the State Personnel Director in writing, and the actions shall be held in abeyance only until sufficient funds become available.

(10) Prohibition of Raise - No employee shall be entitled to an increase in salary upon a transfer.

(11) Step Differentials - Step differentials are pay incentives assigned to employees required to work under special situations (e.g., travel away from assigned base over 50% of an employee's work schedule). Such differentials usually consist of two (2) or three (3) steps being added to an employee's base pay. The step differential is applied only when the employee is working under qualifying conditions. Upon a change of duties, the employee must be returned to his/her base pay.

(12) Voluntary Furlough - Code of Alabama (1975), 36-26-26(e)-(g) (2010 Cum. Supp.) authorizes the Administrator to enact a voluntary furlough plan, which must be approved by the State Personnel Director. This plan must be applied to the entire agency. Participation in the voluntary furlough is at the sole discretion of the employee. An employee participating in a voluntary furlough shall remain whole, including retirement, insurance, leave, time of service, status, and other State benefits.

(13) Voluntary Diminution (Decrease) of Salary - An employee may voluntarily take a diminution in salary by signing a written acknowledgement of this action. This written document will be submitted to Class and Pay and the Director of Finance.

(14) Correction of Errors in Salary Administration - The State Personnel Director is authorized to order a correction in the pay rate of an employee if it occurred due to some error or failure other than through fault of the employee. Examples of such errors may include (but are not limited to): a payroll clerk misplacing an employee's performance appraisal and thus the raise is delayed; a supervisor failing to complete and forward a performance appraisal for some length of time, causing delay in employee receiving an annual raise; or paperwork is mishandled when received by State Personnel, resulting in a delay or incorrect number of steps. The pay adjustments contemplated by this include raising the pay rate to the accurate level, awarding back pay for the period in which the error existed, and adjusting the employee's anniversary date.

The Administrator, through the Agency Payroll Officer, must provide the State Personnel Director a written request explaining the circumstances prompting a pay rate correction. This request must include full details concerning the correct pay rate, the date the error occurred, the cause of the error, and the steps that have been taken to prevent a re-occurrence of the error. Preventive action may include re-training of responsible individuals and/or disciplinary measures to address negligence in handling of pay matters or carelessness on the part of supervisors.

ABC EXHIBIT 4-14

**INSTRUCTIONS AND SUGGESTIONS FOR FILLING OUT
POSITION CLASSIFICATION QUESTIONNAIRE**

PART I - To the Employee

This is a job inventory to permit your agency and State Personnel to maintain an adequate and up-to-date classification of jobs. It is not a study to determine how efficiently you do your job or how well qualified you are to do your work. Its purpose is simply to obtain accurate information about the type of work and responsibilities assigned to this position. You are the best person to provide information about this job because you know the exact duties assigned to the position. Do not copy other positions' task statements even if they are in the same class; we want your own statements about the duties assigned to this position, not the ideas of others. Ask your immediate supervisor to explain questions you do not understand, but use your own words in answering all questions.

Write or type your responses on the questionnaire. Sign and return the questionnaire to your supervisor. If you wish, make a copy to keep for yourself but remember this form is describing the position and not the employee.

If you do not have enough space to answer any one of the questions, use additional sheets to complete your responses. However, use the space on the form to begin your statement, and do not use any more additional sheets than are necessary. Use plain, letter size paper for your additional sheets and staple them inside the questionnaire - do not use paper clips or tape.

The following explanations will help you to understand what information is needed to describe the position. Read the explanation for each item before answering each question.

- ITEM 1. Enter the full name of the employee occupying the position (First, Middle, Last). If none, then enter VACANT.
- ITEM 2. Enter the present "Official" job classification assigned to the position. If you do not know, ask your supervisor.
- ITEM 3. Write the title you and your fellow workers customarily use for your job, such as "Carpenter," "Project Inspector," "File Clerk," "Bookkeeper," etc.
- ITEM 4. Enter the name of the department or agency to which this position is assigned.
- ITEM 5. Enter the name of the Division or Bureau to which this position is assigned.
- ITEM 6. Enter the name of the Section, Unit, or other principal subdivision of the department to which this position is assigned.
- ITEM 7. Enter the name of the county to which this position is assigned.
- ITEM 8. Enter the name and the title of the position's immediate supervisor, the person who assigns work.

ITEM 9. Please check whether this position is full-time or part-time; then check whether it is a permanent position or other.

ITEM 10. Answer this item only if the position supervises others (NOTE: Only complete this section if the position completes the performance appraisals or actively participate in rating other employees. If it functions as a lead worker and only assigns work, then list that responsibility on item 11 B as a duty).

- (A) Enter the number of people supervised (see note above).
- (B) Give the percentage of time spent on direct supervisory related duties as compared to other duties.
- (C) In the space provided list the employees supervised. If 5 or less, list names and job classifications. (EX: John Doe, Engineering Assistant) If more than 5, list job classifications and numbers. (EX: Engineering Aide -5)
- (D) Check the box by the supervisory activities performed.

ITEM 11. (A) Give a summary description of what this position contributes to the Organization. (NOTE: Do not list individual job duties in response to this item.)

(B) Complete Column "C" first. Then after listing all job duties go back and complete columns "A" and "B."

In column "C", explain carefully each kind of work assigned to the position. Give the complete work assignment over a long enough period of time to picture the job as a whole. Make the description so clear that anyone who reads the tasks, even if they know nothing about the job, will understand. Be specific; do not use general phrases. Attach additional sheets if necessary.

In Column "A", indicate the percentage of time spent performing each task.

In Column "B", indicate the level of importance associated with each task.

- VI Very Important
- I Important
- SI Somewhat Important

ITEM 12. Provide an example(s) of the types of important decisions made by this position. Then, if an error is made in making that decision, list the possible effect(s) on the organization or general public.

ITEM 13. If this position has responsibility for controlling and/or authorizing any expenditure of funds, describe and indicate the approximate amount.

ITEM 14. Describe any written guidelines, specific laws, rules, regulations, instructions, or procedures that must be followed while performing the duties of this position.

ITEM 15. Check the box that most accurately describes how the supervisor reviews the work of this position. If "Other" is checked, then describe completely.

ITEM 16. Explain the nature and purpose of contacts this position has with people other than fellow workers. Is the purpose to obtain or give information, to persuade others, or to obtain cooperation? Please use the guidelines given (Who contacted, How contacted, Purpose of contact, and How often - Daily, Weekly, Monthly, Yearly).

- ITEM 17. List any equipment, machines, or instruments used and the percentage of total time spent operating that equipment.
- (A) Check whether this job involves typing and, if so, what percentage of time.
- (B) Check whether this job involves shorthand and, if so, what percentage of time.

Note: Incumbents should sign and date at the bottom of the page.

PART II - Instructions to Supervisors and the Appointing Authority

Review each employee's questionnaire carefully to see that it is accurate and complete. Then fill out items 18 to 22, inclusive, on the questionnaires of only those employees whom you directly supervise. A supervisor should not fill in these items for employees directed through a subordinate, but only for those to whom you assign work directly. In all instances, the department head, administrative officer, or other designated representative should look over both the employees' and their supervisors' statements and indicate under Item 22 any inaccuracies found. Neither the immediate supervisor nor the reviewer, however, should make any alterations or changes in the statements made by a subordinate without first discussing the change with the employee. Any changes made should be initialed by the employee.

If there is a position which is temporarily vacant, or if an employee is not available to fill out the questionnaire, please fill out the form for that position, as accurately as possible. If an employee is new to a position, then have the supervisor complete the form with the employee.

Suggestions for Filling Out Items 18 to 21

- ITEM 18. Read the employee's statements through and then give your opinion of his/her accuracy and completeness. Does it give a full picture of the position's duties and responsibilities? Does it overstate or understate them? Does it emphasize the wrong points? Either comment generally on the statements or refer to specific items. Do not change the employee's statements without discussing the change with the employee and having him/her initial the change.
- ITEM 19. List any additional and/or more complex duties or responsibilities that have been added to this position to warrant reallocation.
- ITEM 20. List any licenses, registrations or certificates that are required to perform the duties of this position.
- ITEM 21. Check the box that best represents the type of supervision provided by you to this position.
- ITEM 22. Use this space to list any additional information that has not been covered, previously.

Instructions to the Appointing Authorities

Either you or your authorized representative should review the information on the form, complete Item 22 indicating any additions, omissions, or inaccuracies and offering any pertinent comments, and then sign the questionnaire in the designated place.

This form must be signed by the incumbent in the position, immediate supervisor, and department or agency head in order to be valid.

Return of Completed Questionnaires

One copy of the questionnaire signed by the employee, supervisor, and department or agency head should be submitted for each position in the department. Additionally, a new Form 40 should be completed anytime a significant change of duties occurs. Copies of the completed forms should be retained by employees or departments.

CHAPTER ABC-4-15

PAYROLL AND BENEFITS

ABC-4-15-.01 [GENERAL](#)

ABC-4-15-.02 [PAYROLL](#)

ABC-4-15-.03 [RETIREMENT](#)

ABC-4-15-.04 [STATE EMPLOYEES' HEALTH INSURANCE PLAN \(SEHIP\)](#)

ABC-4-15-.01 GENERAL

Payroll and benefit functions are processed by the ABC Payroll Officer within the ABC Personnel Division following strict guidelines established and maintained by the Comptroller's Office, State Personnel Board, State Employees' Insurance Board (SEIB), and the Retirement Systems of Alabama (RSA) based on authority established under the Code of Alabama (1975).

ABC-4-15-.02 PAYROLL

(1) **Regular Payroll** - Regular payrolls are processed on a semi-monthly basis with employee payments being made one (1) payday in arrears. Salary payments are made to employees on the 1ST and 16TH day of each month, except that if the first day of October falls on a Saturday, a Sunday, or a holiday, then the salary payment shall be made on the next succeeding workday. If the 1ST or 16TH day of any month, other than the first day of October, falls on a Saturday, a Sunday, or a holiday, then the salary payment shall be made on the last workday immediately prior to the Saturday, the Sunday, or the holiday.

The Administrator and Assistant Administrator are paid on a semi-monthly current basis (15th and last day of the month).

The Finance Director shall have the authority to adjust any payday to ensure that each fiscal year has twenty-four (24) pay periods.

(2) **Supplemental Payroll** - Supplemental payrolls and one time payments are changes or corrections to the regular payroll processed at the end of the 4th business day after the regular payroll date. For example, if regular payroll is Friday, supplemental payroll will run after the close of business on the following Thursday.

(3) **Tax Withholdings** - Tax changes, including employee withholding (completed W-4 and State of Alabama A-4) and occupational tax deductions (city or county occupational tax form), are submitted by the employee to the ABC Payroll Officer for payroll deductions.

The payroll officer is not authorized to make any changes to employee tax classes, Federal or State, where the employee is seeking to gain more income during the calendar year by stating that s/he is "exempt" from paying taxes. Exemption from withholding taxes can only be claimed for the following reasons:

1. The employee had zero tax liability the prior year, and

2. S/he does not expect to incur an income tax liability for the current year.

References: Code of Alabama (1975), 40-18-73(h) Internal Revenue Code Section 3402(n)
Employees incurring no income tax liability.

(4) Miscellaneous Changes - Miscellaneous payroll deductions are processed by the ABC Payroll Officer using written documents submitted by an employee or business entity authorized for payroll deduction. These changes are for things such as health/miscellaneous insurance, Credit Union, ASEA, Deferred Compensation, charities, etc.

(5) Direct Deposit - Upon application for employment with the State, employees consented to having his/her payroll check and other State payments electronically deposited. Thus, each employee should complete a Direct Deposit Request Form and forward it to the ABC Payroll Officer. Once the form has been processed, it takes two (2) pay periods before the direct deposit begins.

(6) Longevity Pay - Permanent full-time and permanent part-time employees are entitled to longevity pay based on the total number of months in active status since the original date of employment. Employee eligibility for longevity pay is based on pay status as of the 1st of December. Longevity payment is included in the first regular payroll check issued in December. Longevity payments are not subject to retirement benefit calculations. Employees on regular or military leave without are eligible for longevity pay.

LONGEVITY PAYMENT SCHEDULE FOR FULL-TIME EMPLOYEES

<u>Total Service Time</u>	<u>Months</u>	<u>Pay</u>
Less than 5 years total service	0-59	\$0
5 years but less than 10 years	60-119	\$600
10 years but less than 15 years	120-179	\$700
15 years but less than 20 years	180-239	\$800
20 years but less than 25 years	240-299	\$900
25 years or more	300 or more	\$1,000

Longevity payments to permanent part-time employees are prorated based on the amount of time worked. Hourly employees are not entitled to longevity payments.

(7) Garnishments - Garnishments are based upon the authority of the State Comptroller's Office. All communications and documents concerning garnishments should be directed to the State Comptroller's Office. The State Comptroller's Office issues a garnishment letter to the employee's home address showing the terms of payment. A copy of this letter is sent to the ABC Payroll Officer and retained in a confidential file. Payroll deductions are stopped by the State Comptroller's Office once the conditions of the garnishment have been satisfied.

(8) Subsistence Pay - In addition to all other compensation, expenses, and allowances, Agency law enforcement agents receive a subsistence allowance of twelve dollars (\$12) for each working day of a pay period while engaged in the performance of the duties as a law enforcement officer for at least four (4) hours. Subsistence pay is processed with regular payrolls and included in the regular check.

ABC-4-15-.03 Retirement

The Retirement Systems of Alabama (RSA) is tasked with administering the Employees' Retirement System (ERS). The ERS is a defined benefit plan qualified under Section 401(a) of the Internal Revenue Code. Participation in the ERS is mandatory for those appointed into a position eligible for coverage. Once enrolled, the member must continue participation until employment is terminated.

The provisions of the retirement law are extensive and always subject to change through legislative activity. Therefore, the Agency urges employees to access the RSA website at www.rsa-al.gov to ensure access to current information.

(1) Employee Contribution Rates - Legislation passed during the 2012 Alabama Legislative Session significantly altered the landscape of the ERS by creating Tier 1 and Tier 2 Defined Benefit plans. Members with any creditable service prior to January 1, 2013 are classified as Tier 1 participants while members hired on or after January 1, 2013 are classified as Tier 2 Participants.

Employee contributions are based on the percentages of earnable compensation. The following table reflects the current employee contribution rates:

Employment Type	Tier 1 - Member Contribution Rate*	Tier 2 - Member Contribution Rate**
Regular State Employees	7.5 %	6.0%
Certified State Law Enforcement Officers	8.5%	7.0%
ABC Enforcement Agents	10.0%	10.0%

*Earnable compensation shall not exceed 120% of base pay

**Earnable Compensation shall not exceed 125% of base pay

(2) Beneficiary Designation - It is very important for employees to keep their beneficiary designation(s) current as failure to do so can result in possible loss of valuable benefits to an employee's survivor(s). Employees may name more than one beneficiary and designate them as contingent or co-beneficiaries. If the primary beneficiary predeceases the employee, the ERS will pay death benefit to the contingent beneficiary. If at the member's death, there is no beneficiary designated, the estate of the member will receive the appropriate death benefit.

Employees wishing to change his/her beneficiary in the event of marriage, divorce, or the beneficiary's death must file a new beneficiary designation with the ERS using the RSA Change of Beneficiary - Prior to Retirement Form. This form is available on the [RSA website](#).

(3) Contact Information Maintenance - It is very important for employees to ensure their contact information, to specifically include their home mailing address, is on file and current with the ERS. Many important documents are mailed to each member such as the *Advisor* (employee newsletter), ERS Board of Control Election ballots, Annual Statement of Account, and RSA-1 statement. Changes can be made through Member Online Services on the RSA website (a User ID and Password will need to be established) or in writing, with signature, either by letter or Address Change Notification Form. Address changes cannot be made through email or over the phone.

(4) Vesting - Vesting occurs when an employee earns enough service credit to be eligible for a lifetime retirement benefit. An employee earns a vested status in the ERS after accumulating 10 years of creditable service, which includes membership service, prior service, purchased service, and transferred service.

(5) Purchasing Additional Service Credit - Alabama State law allows active ERS members to purchase service credit for certain types of past employment. Purchasing service credit may increase one's retirement income or allow him/her to retire sooner. To purchase service credit, the member must submit proper certification of the service. The appropriate certification form can be obtained by contacting the ERS or by downloading the form from their website. Forms are to be completed by an official record keeper where the service was performed. Completed certification forms are then forwarded to ERS.

A listing of the types of service credit eligible for purchase is provided below:

- Restoration of Withdrawn Service Credit from the RSA
- Military Service in the U.S. Armed Forces (Up to 4 years of eligible service can be purchased During 1st year of employment or after completion of at least 10 years of creditable service)
- Maternity Leave Without Pay
- Previous Service with a City, County, Town, Public or Quasi-Public Organization, or Political Subdivision of the State of Alabama (Local Units)
- Out-of-State Public Service
- Non-Participating Employer Services

Eligibility for and cost of all service purchases are based on the provisions of law in effect at the time of purchase. For detailed information pertaining to the purchase of service credit, contact ERS.

(6) Termination/Separation Prior to Retirement - An employee who terminates employment prior to retirement benefit eligibility has three (3) options:

Option 1: Less than ten (10) years of service - contributions can be left in the system for up to five (5) years. If the member has not returned to employment as a participating member, the account will be terminated and contributions plus any refundable accrued interest will be payable to the member.

Option 2: The member may withdraw all retirement contributions and refundable interest. Member contributions are only refunded at the request of the member upon termination of employment. To request a refund, the member should contact the ERS and request a Form 7, Notice of Final Deposit and Request for Refund and the Special Tax Notice Regarding Your Rollover Options or download them from the [RSA website](#).

Option 3: If the member is vested, retirement contributions may be left in the system until age 60 (Tier 1) or 62 (Tier 2). The member may apply for service retirement to be effective the first of the month following attainment of the age requirement. If the member withdraws his/her contributions, the member will not be eligible for retirement benefits.

Upon withdrawal, all service credit established with the ERS is canceled. Vested members opting to withdraw contributions forfeit the right to lifetime monthly retirement benefits. Employer contributions are not included in refunds paid to the member.

There are no partial refunds; all contributions are refunded in full. Interest on the account is only refunded if the member has at least three (3) years of membership service. The employee is not entitled to the total interest credited to the account. By law, interest is credited on the previous year's average balance at the rate of four (4) percent per annum. Refunds may be subject to a federal tax penalty.

TABLE OF REFUNDS

Years of Membership Service	Amount of Interest Refunded	Contributions Refunded
Less than 3 years	None	All
3 years, but less than 16 years	50%	All
16 years, but less than 21 years	60%	All
21 years, but less than 26 years	70%	All
26 years or more	80%	All

The taxable portion of the refund is subject to federal income tax withholding at the rate of twenty (20) percent unless the taxable amount of the refund is transferred directly (rolled-over) from the RSA to the trustee of an Individual Retirement Account, Annuity, or Qualified Retirement Plan. If the member elects to receive the refund directly, s/he will be refunded 80% of the taxable amount of the retirement contributions and refundable interest, if any. The taxable portion of the refund may also be subject to a 10% additional tax if the member is less than 59½ years old. No portion of the refund is subject to State of Alabama income tax.

(7) Service Retirement Eligibility - Service retirement benefits are available to members who cease ERS-covered employment and meet minimum service and/or age requirements. The monthly retirement benefit is paid for life without interruption unless there is a return to full-time employment with an ERS or TRS agency, or to temporary employment in excess of postretirement employment limits.

(a) Tier 1 - A member is eligible to receive retirement benefits if s/he has at least ten (10) years of service credit and has attained the age of 60 (age 52 for State Police) or the employee has accumulated twenty-five (25) years of service credit, without regard to age.

A member is eligible to retire the first day of the month following attainment of age 60 with ten (10) years of creditable service or the first day of the month following attainment of twenty-five (25) years of service credit. Members can only retire on the first day of any month they are eligible. Eligible members may convert unused sick leave days to service credit to meet the minimum requirement for service retirement.

(b) Tier 2 - A member is eligible to receive retirement benefits when s/he has at least ten (10) years of service credit and has attained the age of 62 (age 56 for State Police). A member is eligible to retire the first day of the month following attainment of age 62 with ten (10)

years of creditable service. Members may only retire on the first day of any month they are eligible.

Employees desiring to apply for retirement should download a Retirement Application Packet Part I for State Employees from the [ERS website](#). The application must be completed and received by RSA no less than thirty (30) days nor more than ninety (90) days prior to the effective date of retirement. It is the responsibility of the member to notify the ERS in writing regarding intent to retire.

In accordance with legislation attached to Act 2012-412, any member of the ERS convicted of a felony offense related to their public position must forfeit their right to lifetime retirement benefits. The employee will receive a refund of his/her retirement contributions.

(8) Disability Retirement - If the career of an ERS member is cut short because of permanent disability, the member may qualify for monthly disability benefits. To qualify for a disability benefit, the member must meet all the following conditions:

- The member must have at least ten (10) years of creditable service.
- The member must be in-service. A member is considered in-service if currently working or on official leave of absence for one (1) year, which may be extended for no more than one (1) additional year. A member will not receive service credit for periods of leave without pay. **A member who terminates employment is not eligible to apply for disability retirement.**
- The ERS Medical Board must determine the member to be permanently incapacitated for the further performance of duty. The Medical Board bases its determination upon information provided by the member's physician.

Maximum monthly disability retirement benefits are calculated identically to those for service retirement, **except** that additional credit for sick leave cannot be converted to retirement credit. A member desiring to apply for disability retirement should request a Report of Disability Packet and Retirement Application Packet Part I from the ERS or obtain a copy from their website. The Statement by Examining Physician (included in the Report of Disability Packet) and the retirement application must be received by the ERS office no less than thirty (30) days nor more than ninety (90) days prior to the effective date of retirement, which is the first day of a month. The member is solely responsible for notifying the ERS regarding disability retirement.

A disability retiree will be reviewed once each year for the first five (5) years and once every three (3) year period thereafter until age 62 (age 56 for State Police) to determine whether the retired member remains eligible for disability benefits.

(9) Deferred Compensation - Employees have the option to increase their personal savings and add to their financial security by investing in a governmental 457(b) deferred compensation plan (457 Plan). Two (2) 457 plans, RSA-1 (www.rsa-al.gov) and Great West (<https://alabamaretire.gwrs.com>) are available for State employees. A 457 Plan allows eligible employees to supplement any existing retirement and pension benefits by investing before-tax dollars through a voluntary salary contribution. Contributions and any earnings on contributions are tax-deferred for federal and Alabama income tax purposes until a distribution is taken. Distributions are usually taken at or during retirement. Distributions are subject to ordinary income taxes.

ABC-4-15-.04 STATE EMPLOYEES' HEALTH INSURANCE PLAN (SEHIP)

SEHIP is a basic medical coverage available to State employees and their eligible dependents. Provisions established under Code of Alabama (1975), Section 36-29-1, et seq, the State Employees' Insurance Board (SEIB) is tasked with the design, maintenance, and regulation of SEHIP. Information included in this chapter serves only as a basic overview of SEHIP. Employees can obtain specific plan information by visiting the SEIB website at www.alseib.org, calling toll free at (866) 836-9737, or, most preferably, by contacting their local SEIB Benefits Advisor.

(1) **Eligible Employees** - full-time State employees or part-time employees agreeing to have the required premium paid through payroll deduction. Coverage is not available for those employed on a seasonal, temporary, intermittent, emergency, or contract basis.

(2) **Eligible Dependent(s)** - The term "dependent" includes the following individuals, subject to appropriate documentation (Social Security number, marriage certificate, birth certificate, court decree, etc.):

1. An employee's spouse (excludes divorced or common-law spouse).
2. A child under age 26, only if the child is:
 - a. the employee's son or daughter,
 - b. a child legally adopted by the employee or his/her spouse (including any probationary period during which the child is required to live with the employee),
 - c. a stepchild, or
 - d. a grandchild, niece, or nephew for whom the court has granted custody to the employee or his/her spouse.

(Exception: children age 19 and older who are eligible for coverage through their employer are not eligible for coverage under SEHIP.)

3. An incapacitated dependent over age 25 will be considered for coverage provided dependent:
 - a. is unmarried,
 - b. is permanently mentally or physically disabled or incapacitated,
 - c. is so incapacitated as to be incapable of self-sustaining employment,
 - d. is dependent on the employee for 50% or more support,
 - e. is otherwise eligible for coverage as a dependent except for age,
 - f. the condition must have occurred prior to the dependent's 26th birthday, and
 - g. is not eligible for any other group health insurance benefits.

To apply, contact the SEIB to obtain an Incapacitated Dependent Certification Form. Final approval of incapacitation will be determined by Medical Review. Proof of disability must be provided to the SEIB within sixty (60) days from the date the child would cease to be covered because of age. The SEIB shall make the final decision as to whether an application for incapacitated status will be accepted. The SEIB reserves the right to periodically re-certify incapacitation.

Exclusion: An Employee may not cover a spouse or other dependent(s) if they are independently covered as a State employee.

It is the responsibility of the subscriber to notify the SEIB immediately when the eligibility of a covered dependent changes. If it is determined that an act (such as adding an ineligible person to coverage) or omission (such as failing to remove a person no longer eligible from coverage) of the subscriber results in or contributes to the payment of claims by the SEHIP for persons ineligible for coverage, the subscriber will be personally responsible for all such overpayments and shall be subject to disciplinary action including termination of coverage. (Note: an ex-spouse is ineligible for coverage and cannot be maintained as a dependent under family coverage regardless of a judgment or divorce decree requiring the subscriber to provide healthcare of an ex-spouse. However, an ex-spouse may be eligible for COBRA continuation coverage.)

In the event of the death of an employee covered under the SEHIP who carried family coverage, the eligible dependents may continue coverage by making the appropriate premium payments to the SEIB (SEIB must be notified within ninety (90) days of the date of death). Pursuant to Act 2012-498, the spouse and dependents of an employee covered under the SEHIP who is killed in the line of duty or who dies as a result of injuries received in the line of duty may continue coverage under the SEHIP with the cost of continued coverage to be paid by the State Treasury. Coverage shall cease upon remarriage or upon the attainment of an alternate health insurance provider.

(3) Enrollment and Commencement

(a) Employee - New employees who do not decline coverage will be enrolled as of the effective date of employment, subject to SEIB Rules and Procedures. An SEIB Health Insurance Enrollment Form (IB2) must be completed by the employee and subsequently submitted to the SEIB by the ABC Payroll Officer.

Part-time employees may elect coverage to be effective on their date of employment, subject to appropriate premium payment, or on the first day of the month following first payroll deduction.

Active employees and their dependents over age 65 are covered under the same conditions as any employee under age 65. The SEHIP remains primary for services until employee retires.

(b) Dependent - When adding dependents to family coverage, the employee must submit appropriate documentation (Social Security number, marriage certificate, birth certificate, court decree, etc.) to the SEIB. To avoid enrollment deadlines the employee should submit enrollment forms to the SEIB even if s/he does not have all of the appropriate documentation at the time of enrollment.

- New employees may elect to have dependent coverage begin on the date their coverage begins or no later than the 1st day of the second month following their effective date of coverage, subject to appropriate premium payments.
- The new employee's enrollment form shall reflect the effective date for both the employee and dependent coverage. The SEIB may change the dependent's effective date, subject to receipt of documentation or premium payment.
- Dependents may be added to coverage only during the open enrollment period in November each year. An exception exists for dependents gained through birth, adoption or marriage may be added to coverage during the plan year if a change form is submitted

to SEIB within sixty (60) days of gaining a new dependent. (Special enrollment rights may apply for dependents that lose their other employer group coverage.)

- Payroll deduction for insurance is taken from the last paycheck of the month. A **direct payment** for dependent coverage premium must be submitted with the enrollment form for any coverage period before payroll deduction. The deduction from a payroll check or the deposit by the SEIB of a direct payment does not constitute acceptance of coverage.

(c) **Part-time Employees** - Part-time employees are only eligible for State Employees' Basic Medical Health Insurance (SEHIP) coverage provided that such employees agree to pay, through payroll deduction, the portion of the full premium not paid by the State. Part-time employees who do not elect coverage to be effective on their date of employment or 1st day of the month following first payroll deduction may enroll only during annual open enrollment. Full-time employees enrolled in any of the supplemental plans, who change to part-time, must either decline coverage or revert back to basic medical plan and pay a portion of the funding rate. Employment status changes that result in a change of pro rata premium payments will become effective on the 1st day of the month following notification. The employment status in effect on the first day of the month will apply throughout that month for insurance purposes. Employment status changes are reported to SEIB on a Form 11 or with a memo.

The schedule shown below is used to determine the pro rata premium to be paid by the State and the employee:

Employment Status	State Portion of Funding Rate	Employee Portion of Funding Rate
Less than ½ time	25%	75% + employee premium
At least ½ time but less than ¾ time	50%	50% + employee premium
At least ¾ time but less than full time	75%	25% + employee premium
Full time	100%	0% + employee premium

(d) **Re-Employed State Retiree** - To comply with the Medicare, Medicaid, and SCHIP Expansion Act, SEIB has to show that it is the primary payer for all employees covered by the SEHIP, including re-employed Medicare retirees. This applies to all re-employed State retirees with a FICA deduction.

All re-employed State retirees must complete a Re-employed State Retiree Health Insurance Form. If the employee and/or dependent are Medicare eligible, SEHIP will be the primary payer and premiums will be adjusted. SEIB will bill the Agency for the employer premiums on the monthly supplemental billing.

The base premium for re-employed State Medicare retirees will be the non-Medicare retiree premium, plus or minus the sliding scale adjustment if applicable. Dependent premiums for re-employed State retirees will be paid by the retiree through the monthly deduction from their retirement check.

Non-Medicare re-employed State retirees will continue to pay their premiums through their retirement check.

ABC Personnel will notify SEIB by Form 11 (or a memo) when a re-employed State retiree is no longer employed, so that the SEIB can change the coverage back to Medicare when applicable.

(4) Open Enrollment - Open enrollment is held in November of each year for coverage to be effective the 1st of January and is available for:

- employees who have declined coverage and now wish to enroll in the SEHIP;
- employees who wish to change plans;
- part-time employees who wish to begin coverage; and
- employees who wish to add family coverage or add a dependant to existing family coverage.

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires that a special enrollment period be provided in addition to the regular enrollment period for employees and eligible dependents meeting specified criteria. Terms and conditions can be obtained through contact with the SEIB.

(5) Premiums - The SEIB is responsible for establishing the monthly premiums for SEHIP's various rate classes. The premiums for each rate class are subject to change from year to year. Current premium information can be obtained through contact with the [SEIB](#) or the ABC Payroll Officer.

(6) Employee Options to SEHIP

(a) Optional Plans

1. Employee Opt-Out Provision - Employees may decline coverage in the SEHIP by submitting an enrollment form to SEIB for approval. Employees declining coverage may re-enroll during the regular Open Enrollment period. Special Enrollment is available for all employees who lose their other employer group health coverage, subject to the rules and procedures established by the SEIB.

The agency is still required to pay the Employer Premium for those who decline coverage in the SEHIP.

2. State Employees' Premium Only Plan (SEPOP) - SEPOP is a premium only Health Reimbursement Arrangement (HRA) funded solely by the State of Alabama from which active employees are reimbursed for other employer group health insurance coverage. Active full-time employees eligible to opt out of the Blue Cross Blue Shield basic medical plan offered through the SEHIP and enroll in a Qualified Group Healthcare Plan (excludes SEHIP, Medicare, Medicaid, Marketplace, TRICARE, and TRICARE for Life) (e.g., employer health insurance coverage through a spouse or another employer) can enroll in SEPOP. Once enrolled, an account is established where \$150 is credited each month. This tax free benefit is used to pay premiums for other employer group health insurance.
3. State Employees' Supplemental Coverage Plan (No dependent documentation required) - Employees who decline coverage in the SEHIP may enroll in the State Employees'

Supplemental Coverage Plan at no cost to the employee. This plan provides secondary benefits to the employee's and non-Medicare retiree's primary coverage provided by another employer. The employee *must* provide SEIB with primary coverage information (primary coverage cannot be with SEHIP, PEEHIP, LGHIP, TRICARE or Medicare). The State Employees' Supplemental Coverage Plan benefits cover deductibles, co-payments, and co-insurance per their primary coverage plan benefits. Participants may elect individual or family coverage.

Employees who enroll in the State Employees' Supplemental Coverage Plan may drop this coverage and re-enroll in the SEHIP at any time. Coverage will be effective no later than the first day of the second month following receipt and approval of an enrollment form by the SEIB.

Employees who decline coverage in the SEHIP and enroll in the State Employees' Supplemental Coverage Plan may not enroll in the SEIB Optional Insurance Plan.

4. SEIB Optional Insurance Plan (No dependent documentation required) - Employees who decline coverage in the SEHIP may enroll in the SEIB Optional Insurance Plan. The SEIB Optional Insurance Plan offers four (4) supplemental policies: Dental, Cancer, Hospital Indemnity, and Vision. The four (4) policies are offered as a package at no premium to the employee. Participants may elect individual or family coverage.

An eligible employee or retiree may enroll in the SEIB Optional Insurance Plan at any time, subject to SEIB rules and procedures, by submitting a completed enrollment form directly to the SEIB. Participants must remain in the SEIB Optional Insurance Plan for at least twelve (12) months. Open and Special Enrollment back into the SEHIP is available for all eligible employees and retirees subject to SEIB rules and procedures.

Employees who decline coverage in the SEHIP and enroll in the SEIB Optional Insurance Plan may not enroll in the State Employees' Supplemental Coverage Plan.

(b) Optional Discounts

1. Non-Tobacco User Premium Discount - If an employee (and the employee's spouse if covered as a dependent under SEHIP) has not used tobacco products in the last twelve (12) months, s/he may be eligible for a premium discount. To obtain the discount, the employee must submit a completed non-tobacco user premium discount application to the SEIB. The employee may also qualify for the discount if s/he submits acceptable documentation to the SEIB each year verifying that employee (and the employee's spouse if covered as a dependent under SEHIP):
 - has (have) completed an SEIB approved tobacco usage cessation program; or
 - cannot stop using tobacco products as advised by their physician because it is unreasonably difficult due to a medical condition.

New employees will have sixty (60) days from date of hire to apply for the non-tobacco user discount. When a spouse is added, the 60-day period will also apply.

2. Wellness Premium Discount

Eligibility - All active employees covered under the SEHIP (Group 13000) are eligible for a wellness premium discount. The wellness qualifying period starts October 1 and ends September 30 of each year having a January 1 effective date. Employees and their spouses, if applicable, must be screened either through the SEIB's worksite wellness screening program, a county health department, a participating pharmacist, or by a healthcare provider (through the submission of a Provider Screening Form).

Risk Factors are blood pressure, total cholesterol, glucose, and body mass index. Employees are considered to be "at risk" if his/her:

- Blood pressure systolic reading is 160 or higher, or diastolic reading is 100 or above;
- Cholesterol reading is equal to or above 250;
- Glucose reading is equal to or above 200;
- Body mass index is equal to or above 40.

Screening Referral - Participants screened at the worksite, county health department, or pharmacies that are discovered to have one or more of these risk factors may be eligible for an office visit co-pay waiver referral. The office visit co-pay waiver is only for members covered under Group 13000 and only waives the office visit co-pay. The employee is responsible for all other applicable co-pays, such as lab test co-pays. **This co-pay waiver is not applicable at an emergency room or urgent care center.**

Managing Screening Results - Employees can earn the wellness premium discount within the wellness plan year in the following ways:

- Submission of health screening results through a worksite wellness program indicating that s/he is not at risk for one or more of the specified health risk indicators; or
- Submission of a completed and signed office referral form indicating that s/he has been counseled by a healthcare provider for identified risk(s) indicators; or
- Submission of participation in a YMCA, Gold's Gym, Curves, or other SEIB approved program(s). Documentation of participation is required.
- Provide valid proof that s/he is self-managing and improving his/her identified risk(s) indicators. Documentation of improvement is required; or
- Submission of a completed Provider Screening Form.

Exceptions - An employee may also receive the wellness premium discount if it is deemed that the employee cannot participate in the wellness program due to pregnancy, disability or other infirmity as documented by the employee's physician.

The effective date of the wellness premium discount depends on when the screening results and/or other required documentation are submitted to the SEIB. However, in order for the wellness premium discount to be effective on January 1 (provided that the criteria listed above are met), the employee must meet the criteria no later than November 30 of the preceding year. New employees have sixty (60) days from date of hire to apply for the wellness premium discount. Covered spouses of active employees,

non-Medicare retirees and non-Medicare covered spouses of retirees will have sixty (60) days from their effective date to apply for the wellness premium discount.

For More Information: Call 1.866.838.3059 or visit www.alseib.org.

3. **Federal Poverty Level Discount Program** - If an employee's combined family income is less than or equal to 300% of the Federal Poverty Level as defined by the federal law, s/he may be eligible for a percentage discount off the approved premium. In order for employees and retirees enrolled in the SEHIP to qualify for the discount, acceptable proof of total family income must be submitted to the SEIB.

Family income will be determined based upon current income in conjunction with the prior year's federal and State income tax returns. As a condition of participating in the Federal Poverty Level Discount Program, applicants must authorize the Alabama Department of Revenue (or the appropriate agency of the applicant's State of residence) to release to the SEIB all of the applicant's tax related information in their records for the current and prior tax year.

The premium discount will be applied as follows:

- Greater than 300% of the FPL - employee pays 100% of the employee contribution
- Equal to or less than 300% of the FPL - employee contribution reduced 10%
- Equal to or less than 250% of the FPL - employee contribution reduced 20%
- Equal to or less than 200% of the FPL - employee contribution reduced 30%
- Equal to or less than 150% of the FPL - employee contribution reduced 40%
- Equal to or less than 100% of the FPL - employee contribution reduced 50%

Certification of income level will be effective for twelve (12) months. Thereafter, re-certification will be made annually on the employee's or retiree's birthday.

(7) Flexible Employees' Benefits Plan - Employees are eligible to pay premiums and pay for eligible healthcare and dependent care expenses with payroll deductions before State and federal taxes are applied. The State Flexible Employees' Benefits Plan offers three (3) programs designed to save employees money:

(a) The Premium Conversion Plan (PCP) - allows eligible employees the opportunity pay premiums for State Employees' Health Insurance Plan (SEHIP) and certain qualified voluntary insurance programs using pre-tax dollars.

(b) The Dependent Care Reimbursement Account Plan (DCRA) - allows eligible employees the opportunity to pay dependent care expenses using pre-tax dollars.

(c) The Healthcare Reimbursement Account Plan (HCRA) - allows eligible employees to set aside tax-free money in an account to pay themselves back for eligible healthcare expenses incurred by them and their dependents.

Specific information for each of these plans can be obtained by accessing the [SEIB website](#), calling (866)833-3378, or through contact with your local SEIB Benefits Advisor.

(8) Termination of Coverage

(a) SEHIP Coverage Termination - SEHIP coverage will terminate:

- On the last day of the month in which employment terminates. The SEIB may continue an employee's coverage if s/he is absent from work because of injury or sickness, or if s/he is absent from work due to a leave of absence or temporary layoff, but only for a limited period. Premiums may be required from the employee by direct pay. For details, contact the SEIB.
- On the last day of the month in which the employee declines coverage or opts out of SEHIP.
- When the SEHIP is discontinued.

Coverage under the SEHIP will also terminate for a dependent:

- On first day of the following month in which such person ceased to be an eligible dependent.
- If the dependent becomes covered as an employee.
- When premium payments cease for coverage of a deceased active or deceased retired employee.
- When premium payments cease.

When dependent coverage is terminated, it is the employee's responsibility to notify the SEIB to discontinue payroll deductions. A continuation of deductions after the month of termination does not constitute dependent coverage.

In many cases the employee will have the option to choose continuation of group benefits as provided by the Public Health Service Act. (See COBRA Section in SEHIP handbook.)

(b) Family & Medical Leave Act

The Agency works closely with the SEIB to adhere to the provisions of the Family and Medical Leave Act of 1993, as amended (FMLA). Under the FMLA, the Agency is required to continue health insurance coverage for employees on FMLA. Procedures for payment of health insurance premiums for employees on FMLA are as follows:

- Employees who are in pay status while on FMLA (i.e. using annual or sick leave), will continue to have the employee and dependent health insurance premiums paid through the GHRS payroll/personnel system by the State Comptroller.
- Employees on FMLA who are not in pay status when health insurance premiums are deducted will be responsible for paying employee and dependent health insurance premiums directly to the SEIB if they want to continue the health insurance coverage. Failure to remit payment will result in termination of SEHIP coverage.
- The Agency must provide SEIB with documentation (Form 11) of FMLA for employees who are not in pay status (when leave without pay is twenty (20) days or more). The GHRS payroll is not an automated billing system for FMLA insurance premiums. When SEIB is notified they will check to see premiums due are billed and paid. SEIB should also be notified when employees return to pay status.

(c) Employees on Leave without Pay (LWOP)

1. State health insurance coverage for employees on official leave without pay may be continued for a maximum of twelve (12) months provided the employee elects to make the premium payment required for coverage directly to SEIB. Official LWOP is established when an employee has received the approval of the Administrator and State Personnel Director (for classified employees) to be taken off the payroll for an extended period of time.
2. Direct Payment of Premiums for Employees on Leave Without Pay - The employer share of premiums for employees going on leave without pay will be paid by the employer for the month in which leave without pay begins unless leave begins on the first of the month, in which case the employee must make the premium payment. For example, an employee beginning leave on March 10 will begin direct payment April 1 (the employer would pay the employer share for March coverage). Therefore, the first direct payment and documentation of leave without pay must be received by the Insurance Board no later than April 1. If leave began March 1, the employee would pay for March coverage.
3. Documentation of Leave Status - Direct payments will not be processed without proper documentation indicating that the employee is on official leave without pay (Form 11 for classified employees, documentation from appointing authority for others). The first direct payment must be accompanied by a copy of the documentation of official leave and both the payment and the documentation must be received no later than the first day of the coverage period for which direct payment is submitted.

Employees covered under the State Employees' Supplemental Plan or the Optional Plans will be required to pay premiums.

- Employee enrolled in SEHIP pay 100% of funding rate plus the employee premium.
 - Employees enrolled in supplemental plan or optional policies pay 20% of funding rate (no employee premium).
4. Return from Leave without Pay - If the employee maintained coverage through direct payment, the employee will be responsible for payment of premiums through the end of the month in which s/he returns to active employment unless they return on the first working day of the month. The employing agency must resume payment of employer share of premiums beginning with the month immediately following the month in which the employee returns. For example, an employee who returns from leave without pay on March 8 must pay for his/her March coverage. The employer would resume payment of the employer share of premiums beginning with the April coverage. No pro rata premiums will be accepted unless the employee did **not** make direct payment of premiums while on leave, in which case the employee is considered a new employee for insurance purposes and must be re-enrolled on the date the employee returns to active employment. A new enrollment and pro rata payment is required, (the 270-day preexisting condition limitation will apply if there is more than a 63-day break in coverage).

5. Periods Off Payroll Not Considered Official Leave Without Pay: When an employee has depleted his/her accumulated leave and must be taken off the payroll for several days, payment of the employer share of premium should be continued by the employing agency if the period off the payroll is not considered extended leave without pay requiring approval of the Personnel Department (for classified employees) or appointing authority where applicable.



H. M. Gipson
Administrator
William E. Thigpen
Assistant Administrator

Alabama Alcoholic Beverage Control Board

Robert W. "Bubba" Lee
Board Chairman
Samuella H. Drew
Board Member
Rickey D. Mobley
Board Member

ABC PERSONNEL POLICIES AND PROCEDURES MANUAL

EMPLOYEE ACKNOWLEDGMENT FORM

I acknowledge that the ABC Board Personnel Policies and Procedures Manual (hereinafter "Manual") has been made easily and readily accessible within my designated work area as well as on the ABC Board (hereinafter "Agency") website (www.abc.alabama.gov). I understand that I am responsible for reading and familiarizing myself with the contents of the Manual, ask questions about any items I do not understand, and abide by the policies and procedures included in the Manual throughout my employment with the Agency. I understand that my failure to comply with the contents contained therein and any subsequent revisions, additions, or amendments to said policies may result in adverse action on my employment status up to and including separation from State service.

The information, policies, and benefits described therein are necessarily subject to change and I acknowledge that revisions to the Manual may occur. I understand that the Agency may change, modify, suspend, interpret or cancel, in whole or part, any of the published or unpublished personnel policies or practices, with or without notice, at its sole discretion, without giving cause or justification to any employee. Such revised information may supersede, modify or eliminate existing policies. Any written or oral statement by a supervisor or Division Director contrary to the personnel policy manual is invalid and should not be relied upon by any employee.

This Manual replaces any prior Manuals.

Employee Name (Printed)

Employee Signature

Date