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## Variable Compensation Plan for FY 2021

**TO:** Elected Officials, Agency Directors and Personnel Officers  
State Government Agencies

**FROM:** Kelly Hardwick  
Mississippi State Personnel Board Executive Director

**DATE:** July 16, 2020

**SUBJECT: ADMINISTRATION OF THE VARIABLE COMPENSATION PLAN FOR  
FISCAL YEAR 2021**

**A. Statement of Purpose**

Administration of the Variable Compensation Plan for Fiscal Year 2021 shall be governed by policies and procedures contained herein. These provisions shall supersede all conflicting policies and procedures for administration of salaries published in the *Mississippi State Personnel Board Policy and Procedures Manual*, any additional or replacement manuals, and all subsequent changes to the manual, effective as of close of business on June 30, 2020, and shall become an official attachment to the *Mississippi State Personnel Board Policy and Procedures Manual* for Fiscal Year 2021.

The increase or decrease of any salary under the salary setting authority of the Mississippi State Personnel Board shall comply with the policies below except where Legislative authority specifies otherwise.

The development of the following policies is based upon implementation of Legislative intent as expressed in the following language contained in state service agencies' appropriation acts:

With the funds herein appropriated, it shall be the agency's responsibility to make certain that funds required to be appropriated for "Personal Services" for Fiscal Year 2022 do not exceed Fiscal Year 2021 funds appropriated for that purpose, unless programs or positions are added to the agency's Fiscal Year 2021 budget by the Mississippi Legislature. Based on data provided by the Legislative Budget Office, the State Personnel Board shall determine and publish the projected annual cost to fully fund all appropriated positions in compliance with the provisions of this act. Absent a special situation or circumstance approved by the State Personnel Board, or unless otherwise authorized by this act, no state agency shall take



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any action to promote or otherwise award salary increases through reallocation, reclassification, or realignment. If the State Personnel Board determines a special situation or circumstance exists and approves an action, then the agency and the State Personnel Board shall provide a monthly report of each action approved by the State Personnel Board to the Chairmen of the Accountability, Efficiency and Transparency Committees of the Senate and House of Representatives and the Chairmen of the Appropriations Committees of the Senate and House of Representatives. It shall be the responsibility of the agency head to ensure that no single personnel action increases this projected annual cost and/or the Fiscal Year 2020 appropriations for "Personal Services" when annualized, with the exception of escalated funds and the award of benchmarks. If, at the time the agency takes any action to change "Personal Services," the State Personnel Board determines that the agency has taken an action which would cause the agency to exceed this projected annual cost or the Fiscal Year 2021 "Personal Services" appropriated level, when annualized, then only those actions which reduce the projected annual cost and/or the appropriation requirement will be processed by the State Personnel Board until such time as the requirements of this provision are met.

Any transfers or escalations shall be made in accordance with the terms, conditions and procedures established by law or allowable under the terms set forth within this act. The State Personnel Board shall not escalate positions without written approval from the Department of Finance and Administration. The Department of Finance and Administration shall not provide written approval to escalate any funds for salaries and/or positions without proof of availability of new or additional funds above the appropriated level.

No general funds authorized to be expended herein shall be used to replace federal funds and/or other special funds which are being used for salaries authorized under the provisions of this act and which are withdrawn and no longer available.

None of the funds herein appropriated shall be used in violation of the Internal Revenue Service's Publication 15-A relating to the reporting of income paid to contract employees, as interpreted by the Office of the State Auditor.

Where the Legislature has authorized agency-specific exemptions and/or designated agency-specific actions that may be processed for FY 2021, the Mississippi State Personnel Board will process those transactions within the parameters provided by the Legislature.



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**B. Coverage of these Policies**

1. These policies shall govern employee salary increases and position changes for:
  - a. State service employees and positions;
  - b. Non-state service employees and positions excluded from the state service by *Mississippi Code Annotated* § 25-9-107(c), but subject to Mississippi State Personnel Board salary setting authority as listed below:
    - (1) Part-time employees and positions [Refer, *Mississippi Code Annotated* § 25-9-107 (c)(xi)];
    - (2) Persons appointed on an emergency basis [Refer, *Mississippi Code Annotated* § 25-9-107 (c)(xii)];
    - (3) Time-limited employees and positions [Refer, *Mississippi Code Annotated* § 25-9-107 (c)(xiv)];
    - (4) Administrative heads appointed by the Governor, board, commission or other authority, unless otherwise fixed by statute [Refer, *Mississippi Code Annotated* § 25-9-107 (c)(xv)];
    - (5) Administrative officers, deputies, bureau chiefs, and directors and their positions [Refer, *Mississippi Code Annotated* § 25-9-107 (c)(xvi)];
    - (6) Personnel employed by the Mississippi Department of Wildlife, Fisheries and Parks and the Mississippi Department of Marine Resources as law enforcement trainees (cadets) [Refer, *Mississippi Code Annotated* § 25-9-107 (c)(xxi)]; and
  - c. Non-state service employees excluded from the state service by *Mississippi Code Annotated* § 25-9-127, but subject to Mississippi State Personnel Board salary setting authority as listed below:
    - (1) Employees of the Department of Human Services for a period of four years beginning July 1, 2016, pursuant to *Mississippi Code Annotated* § 25-9-127; and
    - (2) Employees of the Department of Child Protection Services for a period of four years beginning July 1, 2016, pursuant to *Mississippi Code Annotated* § 25-9-127.



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2. Agencies or positions with statutory exclusion (not under the salary setting authority of the Mississippi State Personnel Board and not subject to the compensation policies of this memorandum) are listed below:
  - a. Non-state service agencies [Refer, *Mississippi Code Annotated* §§ 25-9- 107 (c)(i), (ii), (iii), (iv), (vii), (viii), and (xvii)];
  - b. Non-state service occupations [Refer, *Mississippi Code Annotated* § 25-9- 107 (c)(v), (vi), (ix), and (xiii)];
  - c. Non-state service positions of associate director, deputy directors and bureau directors within the Department of Agriculture and Commerce [Refer, *Mississippi Code Annotated* § 25-9-107 (c)(xix)];
  - d. Non-state service positions of deputy superintendents, associate superintendents and divisional directors within the State Department of Education [Refer, *Mississippi Code Annotated* § 37-3-13 (1)];
  - e. Non-state service positions of associate directors, deputy directors and bureau directors within the Mississippi Development Authority [Refer, *Mississippi Code Annotated* § 57-1-5 (3)(c)(xi)]; and
  - f. The President of the Mississippi Lottery Corporation and personnel employed by the Mississippi Lottery Corporation. [Refer, *Mississippi Code Annotated* § 25-9-107 (c)(xxii)];
3. Salaries set by statute shall be implemented strictly in accordance with Legislative intent [Refer, *Mississippi Code Annotated* §§ 25-3-31 and 25-3-35].

### C. **Policy Provisions for Implementation of Legislative Intent**

#### 1. Realignment

Funds were not appropriated for all agencies, boards, and commissions for this component of the Variable Compensation Plan for Fiscal Year 2021.

#### 2. In-service Cost of Living Allowance (COLA)

Funds were not appropriated for all agencies, boards, and commissions for this component of the Variable Compensation Plan for Fiscal Year 2021.



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### 3. Reallocations

Funds were not appropriated for all agencies, boards, and commissions for this component of the Variable Compensation Plan for Fiscal Year 2021.

### 4. Longevity

Funds were not appropriated for all agencies, boards, and commissions for this component of the Variable Compensation Plan for Fiscal Year 2021.

### 5. Productivity

Funds were not appropriated for all agencies, boards, and commissions for this component of the Variable Compensation Plan for Fiscal Year 2021.

### 6. No Increase to Appropriated Dollars or Projected Annual Cost

On or about July 1, 2021, the Mississippi State Personnel Board staff shall publish the projected annual cost to fully fund all appropriated positions.

- a. It shall be the responsibility of the agency head to ensure that no single personnel action increases this projected annual cost and/or the Fiscal Year 2021 appropriations for "Personal Services" when annualized, with the exception of escalated funds and the award of benchmarks.
- b. At the end of each day, the Mississippi State Personnel Board will publish a report indicating the flexibility available to each agency with regard to the projected annual cost or the appropriated dollars.
- c. If the Mississippi State Personnel Board determines the agency has taken an action that would cause the agency to exceed this projected annual cost or the Fiscal Year 2021 "Personal Services" appropriated level when annualized, with the exception of escalated funds and the award of benchmarks, then any subsequent action will not be processed until such time as the agency has sufficiently reduced the projected annual cost and/or the appropriation requirement.
- d. This language is not intended to stop the escalation of time-limited positions and the award of benchmarks. Escalations and the award of benchmarks shall not be considered to cause an agency to exceed the established limits and will not be accounted for in the reports relative to this language.



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### **D. Scope of Mississippi State Personnel Board Executive Director Authority**

#### 1. Requests for Action

All requests for action under the Variable Compensation Plan for Fiscal Year 2021 shall cite the section of the policy which authorizes such requests and action by the Mississippi State Personnel Board.

#### 2. Fiscal Year 2021 Promotional Formula

The Fiscal Year 2021 Promotional Formula shall be applied for promotional transfers, upward reallocations, upward reclassifications, and realignments as directed below. The promotional formula is utilized for the purpose of calculating the promotional max salary. **The actual award up to the max salary is at the discretion of the agency head.** The promotional max salary is the maximum that may be awarded. Unless otherwise permitted by law, no single event, including promotion, reclassification or reallocation, shall exceed the greater of (1) the difference between the starting salary of the current classification and the new classification added to the employee's current salary, or (2) the salary that could be paid to an equally qualified, newly hired employee. The authorized salary for promotion to a vacant position is determined under the following provisions:

- a. When the current salary is greater than the old starting salary, the PRO MAX is equal to the difference between the old and the new starting salaries added to the current salary.

#### **EXAMPLE**

Current Salary:	\$18,220.80
Old Start Salary:	\$12,648.12
New Start Salary:	\$18,408.60

$$\$18,408.60 - \$12,648.12 = \$ 5,760.48$$

$$\$ 5,760.48 + \$18,220.80 = \$23,981.28 \text{ PRO MAX}$$

- b. When the current salary is less than or equal to the old starting salary, PRO MAX is equal to the start salary of the new position.
- c. Where the promotional increase authorized under the promotional formula is less than the salary that could be authorized for a new hire (ten percent above start), Promotional Flex may be awarded under the same criteria set forth under the provisions for "New Hire Flexibility/Promotional



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Flexibility," Section D.5.b.

- d. The promotional maximum (PRO MAX) should not exceed the end salary of the classification to which promoted.
- e. For realignments, maximum eligibility shall be the difference between the old and new starting salaries.

### 3. Reallocations and Realignment

All requests for reallocation and realignment must be justified and submitted by the requesting agency as outlined in the *Mississippi State Personnel Board Policy and Procedures Manual* for approval by the Mississippi State Personnel Board or the Mississippi State Personnel Board Executive Director or their designee.

Agencies with misclassified positions may include requests for reallocation in their Fiscal Year 2021 Budget Request. However, each agency head shall have the opportunity to document the immediate need for a reallocation by demonstrating that a bona fide staffing need exists that cannot be adequately addressed through normal budget procedures. The Mississippi State Personnel Board will consider reallocations outside the Legislative process only upon certification by the agency director that adequate funds are available.

For filled positions, agencies must submit a copy of a State of Mississippi Application, completed, and signed by the incumbent with a screen print of the appropriate "Reallocation/Reclassification" screen stapled to the front. Only those individuals meeting the education and experience requirements as reflected in the minimum qualifications of the job class will be reallocated. In those cases where individuals do not meet the minimum qualifications for the job classification to which the position is to be reallocated, agencies must resubmit the requested reallocation in their Fiscal Year 2021 Budget Request, if such reallocation is still required.

If an employee who has received a reallocation returns to his/her previous classification within twenty-four (24) months, the employee shall return to his/her salary before the reallocation, except as may be adjusted by Legislative increases.

Reallocations not submitted in accordance with these provisions shall be returned without action.

#### a. Upward Reallocations

Per appropriations language, absent a special situation or circumstance approved by the State Personnel Board, no state agency shall take any



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action to promote or otherwise award salary increases through reallocation of filled or vacant positions. If the State Personnel Board determines a special situation or circumstance exists and approves an action, then the agency and the State Personnel Board shall provide a monthly report of each action approved by the State Personnel Board to the Chairmen of the Accountability, Efficiency and Transparency Committees of the Senate and House of Representatives and the Chairmen of the Appropriations Committees of the Senate and House of Representatives.

The Mississippi State Personnel Board Executive Director shall evaluate the requested classification and shall make recommendations to the Mississippi State Personnel Board as to the action to be taken on a request for the upward reallocation of any position. Select classifications at the Department of Child Protection Services, Correctional Officers at the Department of Corrections, the Direct Care Series at Mental Health and Mississippi Veterans Affairs, and positions assigned to the Driver Services Bureau at the Department of Public Safety are established as special circumstances and will maintain this status for Fiscal Year 2021. The reallocation of positions in these categories may be approved by the Executive Director or his designee and reported to the Mississippi State Personnel Board monthly.

Requests for upward reallocations for Information Technology classifications shall also be considered on a case-by-case basis by the Mississippi State Personnel Board with recommendation by the Information Technology Professional Development Committee (ITPDC). See the *Administrative Policies and Procedures for the Special Compensation Plan for Information Technology Classifications for Fiscal Year 2021*.

- (1) Reallocations which require Mississippi State Personnel Board Executive Director or their designee's approval must be accompanied by **detailed** on-line justification. The agency must also submit to MSPB staff, the appropriate Job Content section(s) of the Performance Review Assessment or Role Description Questionnaire(s); organizational chart page(s), with a screen print of the "Reallocation/Reclassification" attached; copies of any relevant federal or state regulations, case law, or statutes; and justification for any change from non-state service to state service, or the reverse. **Agencies are encouraged to submit all required documentation electronically.**
- (2) Reallocations which require Mississippi State Personnel Board approval must include those items listed in subsection (1) above, as well





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as a detailed letter of justification signed by the agency head or their designee.

Those reallocations, which were recommended in the Fiscal Year 2021 Budget Request but were not appropriated for Fiscal Year 2021, may be entered into the "Position" screen (PO MP RR) of SPAHRS, at the discretion of the appointing authority, on or after July 1, 2020, provided said reallocation is cost neutral in compliance with Section C.6. The on-line notes must identify the position(s) as approved but not funded. No further documentation is required with the exception of a copy of a State of Mississippi Application for a filled position.

### b. Lateral Reallocations

All lateral reallocations must be justified and submitted by the requesting agency in accordance with Mississippi State Personnel Board policies and procedures. The authorized salary for the lateral reallocation of a filled position is no more than the current salary before the reallocation. However, where the salary authorized for the lateral reallocation is less than the salary which could be authorized for a new hire (ten percent above start), salary flexibility may be awarded under the same criteria set forth under the provisions for "New Hire Flexibility/Promotional Flexibility," Section D.5.b.

### c. Downward Reallocations

All downward reallocations must be justified and submitted by the requesting agency in accordance with Mississippi State Personnel Board policies and procedures. The salary authorized for the downward reallocation of a **filled** position is determined by the following method:

- (1) The authorized salary for any downward reallocation shall be no greater than the difference between the old and the new starting salaries, subtracted from the current salary. However, at agency head discretion, the authorized salary may be reduced to a lower salary within the pay range of the new job class to ensure equitable compensation with other employees in the same classification. A written acknowledgement signed by the affected employee shall accompany all downward reallocations.



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**EXAMPLE**

Current Salary: \$18,408.60  
Old Start Salary: \$18,220.80  
New Start Salary: \$12,648.12

$\$18,220.80 - \$12,648.12 = \$ 5,572.68$

$\$18,408.60 - \$ 5,572.68 = \$12,835.92 \text{ MAX}$

- (2) In extraordinary circumstances, the agency may request the Mississippi State Personnel Board Executive Director to allow the employee to remain at up to his/her current salary as long as the current salary does not exceed up to twenty-five (25) percent above the starting salary of the new classification.
- (3) Where the salary authorized for the downward reallocation is less than the salary which could be authorized for a new hire (ten percent above start), salary flexibility may be awarded under the same criteria set forth under the provisions for “New Hire Flexibility/Promotional Flexibility,” Section D.5.b.
- (4) A written agreement signed by the affected employee shall accompany voluntary downward reallocations.
- (5) A written acknowledgment signed by the affected employee, or a statement from the appointing authority or their designee certifying that the employee has been notified of the downward reallocation, shall accompany involuntary downward reallocations.

d. Non-Appropriated Realignment

Per appropriations language, absent a special situation or circumstance approved by the State Personnel Board, no state agency shall take any action to promote or otherwise award salary increases through realignment of filled or vacant positions. If the State Personnel Board determines a special situation or circumstance exists and approves an action, then the agency and the State Personnel Board shall provide a monthly report of each action approved by the State Personnel Board to the Chairmen of the Accountability, Efficiency and Transparency Committees of the Senate and House of Representatives and the Chairmen of the Appropriations Committees of the Senate and House of Representatives. Select classifications at the Department of Child Protection Services, Correctional Officers at the Department of Corrections, the Direct Care Series at Mental Health and Mississippi Veterans Affairs, and positions



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assigned to the Driver Services Bureau at the Department of Public Safety are established as special circumstances and will maintain this status for Fiscal Year 2021. Realignment of classifications in these categories require Mississippi State Personnel Board approval.

The Mississippi State Personnel Board may approve realignments only if a bona fide and verifiable staffing crisis has arisen due to a substantial increase in salaries in the relevant labor market for the subject job class. In such instances, the agency must provide salary survey data compiled from an acceptable relevant labor market and must justify that delayed implementation of the regular realignment would seriously threaten critical agency services.

Generally, only those job classifications which are specific to the requesting agency, will be considered for non-appropriated realignment. However, realignment of generic classes will be considered in the case of extraordinary circumstances, such as court-ordered or legislatively mandated realignment occurring outside the normal budget cycle.

#### 4. Reclassifications

Per appropriations language, absent a special situation or circumstance approved by the State Personnel Board, no state agency shall take any action to promote or otherwise award salary increases through the upward reclassification of filled or vacant positions. If the State Personnel Board determines a special situation or circumstance exists and approves an action, then the agency and the State Personnel Board shall provide a monthly report of each action approved by the State Personnel Board to the Chairmen of the Accountability, Efficiency and Transparency Committees of the Senate and House of Representatives and the Chairmen of the Appropriations Committees of the Senate and House of Representatives. Select classifications at the Department of Child Protection Services, Correctional Officers at the Department of Corrections, the Direct Care Series at Mental Health and Mississippi Veterans Affairs, and positions assigned to the Driver Services Bureau at the Department of Public Safety are established as special circumstances and will maintain this status for Fiscal Year 2021. The reallocation of positions in these categories may be approved by the Executive Director or his designee and reported to the Mississippi State Personnel Board monthly.

In certain limited circumstances, agency heads may be granted authority by the Mississippi State Personnel Board to reclassify positions within a class series. Once reclassification authority is approved by the Mississippi State Personnel Board, reclassification actions may be implemented at the discretion of the agency head. Each year on a date prior to fiscal year conversion, the Mississippi State Personnel Board allows each agency to submit requests for changes to the authorized schedule of



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reclassifications. Only reclassifications of classes that are on the authorized reclassification list shall be implemented.

### 5. Original Appointments

#### a. Standard New Hire Salary

The authorized salary for a new hire is at or below the starting salary assigned the class in which employed. At the agency head's discretion, a request to increase an employee's salary to the starting salary may be submitted at any time. At no time will a new employee be hired below the federally mandated minimum wage of \$7.25 per hour.

#### b. New Hire Flexibility/Promotional Flexibility

New Hire Flexibility or Promotional Flexibility may be awarded by the Executive Director when the education, experience, or professional certification possessed by the applicant or employee exceeds the minimum requirements for the job classification to which appointed.

Agency heads may request to the Mississippi State Personnel Board Executive Director on a case-by-case basis the award of New Hire Flexibility or Promotional Flexibility. The justification that accompanies each individual request to apply New Hire Flexibility or Promotional Flexibility should specifically address why it is of greater value for the agency to employ persons with experience, education, or professional certification which exceeds the minimum qualifications of the job classification, along with a synopsis of the extraordinary qualifications of the candidate in relation to the minimum qualifications of the classification. Agencies should also include their methodology for determining the award of New Hire Flexibility or Promotional Flexibility.

When awarding New Hire Flexibility or Promotional Flexibility, a review of employees in the same agency and job classification should be made to determine that there would be no salary inequity between individuals who possess the same qualifications. Should the flexibility cause a salary inequity, the agency may request consideration from the Mississippi State Personnel Board Executive Director to award similar flexibility to affected employees.

New Hire Flexibility or Promotional Flexibility shall be computed and awarded using the methodology outlined below or the methodology submitted by the agency, not to exceed the maximums outlined in the criteria below:



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- (1) Additional directly related experience of at least one year is valued up to a maximum of five percent (5%); and/or

Additional directly related education of at least one year is valued up to a maximum of five percent (5%); and/or

Professional certification directly related, but in excess of any certification required in the minimum requirements of the job classification, is valued up to a maximum of five percent (5%). However, the maximum percentage allowed for a certification shall not exceed the approved benchmark amount set for that certification.

- (2) The total cumulative New Hire Flexibility or Promotional Flexibility award for any combination of experience, education, or certification shall not exceed ten percent (10%) above the starting salary of the classification.
- (3) A SPAHRS screen print of the New Hire Flexibility or Promotional Flexibility request attached to a State of Mississippi Application must be forwarded to the Mississippi State Personnel Board.
- (4) New Hire Flexibility or Promotional Flexibility awards will not be approved in conjunction with job classifications authorized for Recruitment Flexibility.
- (5) In circumstances which may be justified, the agency may request to the Mississippi State Personnel Board Executive Director to allow more than the maximum of five percent (5%) for additional directly related experience or more than the maximum of five percent (5%) for additional related education. However, under no circumstances shall the total cumulative New Hire Flexibility or Promotional Flexibility award for any combination of experience, education, or certification exceed ten percent (10%).

### c. Agency Head Flexibility

Agency Head Flexibility may be awarded to individuals who report directly to the agency head or a key excluded official or advocate substantive agency policy. Requests for Agency Head Flexibility must meet the following criteria:

- (1) An employee must be classified in the non-state service under Section 25-9-107 (c)(xvi) of the *Mississippi Code Annotated*.



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- (2) Agency Head Flexibility increases shall not exceed 25% above the starting salary of the classification. The total cumulative New Hire Flexibility or Promotional Flexibility award and the total cumulative Agency Head Flexibility increase together shall not exceed 25% above the starting salary of the classification.
- (3) If an individual who has received Agency Head Flexibility leaves the Exclude Code 16 position, his/her salary shall be calculated by determining what the salary would have been had he/she not received Agency Head Flexibility.
- (4) Requests for Agency Head Flexibility increases shall be accompanied by the following documentation:
  - (a) Online description of the amount awarded;
  - (b) A signed statement from the employee acknowledging the non-state service status, the amount of salary increase, and the subsequent salary withdrawal upon removal from non- state service status. (See Attached Form X16-0700.)

### d. Recruitment Flexibility

- (1) All requests to recruit applicants at a salary exceeding the assigned starting salary are to be submitted for Mississippi State Personnel Board approval prior to a job offer or appointment of an applicant. Such a request shall be accompanied by a letter of justification from the agency head describing documented recruitment difficulties experienced by the agency.

The recruitment difficulties recognized by the Board include, but are not limited to:

- (a) Documented recruitment difficulties for a job class which may be attributed to the established minimum or special qualifications of a job; and/or
- (b) Insufficient labor market availability of qualified applicants and/or availability of a limited applicant pool complicated by a salary range for the job, which is not competitive with the relevant labor market.



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Misclassification of a position shall not be used as the basis for a recruitment flexibility request.

- (2) Requests for recruitment flexibility approved by the Mississippi State Personnel Board for an entire classification or for a specific position shall be valid for a period of twenty-four (24) months from the effective date of approval. If the agency is unable to fill the position within the twenty-four (24) month period, the Mississippi State Personnel Board Executive Director may authorize an extension of the recruitment flexibility for an additional twenty-four (24) months.
- (3) If within twelve (12) months from the date of hire, the incumbent of a position which has been authorized for recruitment flexibility transfers to a position which has not been authorized for recruitment flexibility, the salary at transfer shall be established by calculating what the incumbent's salary would have been had the position from which he/she transferred not been authorized for recruitment flexibility.
- (4) At the time of hire, the agency shall submit a written acknowledgment signed by the affected employee certifying that he/she has been notified of and fully understands the recruitment flexibility policies and salary calculations.

When awarding Recruitment Flexibility, a review of employees in the same agency and job classification series should be made to determine that there would be no salary inequity between current employees and employees hired using recruitment flexibility. Should the flexibility cause a salary inequity, the agency may request consideration from the Mississippi State Personnel Board Executive Director to award similar flexibility to affected employees.

### 6. Appointment of New Hires from Agencies or Classifications Not Under the Purview of the Mississippi State Personnel Board

The authorized salary for an individual hired from a State agency or classification not under the purview of the Mississippi State Personnel Board into an agency/classification under the purview of the Mississippi State Personnel Board shall be determined under the provisions for "Original Appointments," Section D.5.

### 7. Appointment of Executive Directors

For the purposes of this section, the supervisory authority is the individual, board or commission which may terminate an agency head either at will or through due process



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as specified by legislation. For agencies where no supervisory authority is specified, the Mississippi State Personnel Board will set the salary of the agency head.

### a. Initial Salary

The supervisory authority responsible for appointing each Executive Director shall have the flexibility at the time of hire to establish the salary of the appointed official within the appropriate pay range. The salary should be based upon factors directly related to job performance such as previous work experience and educational attainment. The following documentation shall be submitted at the time of the appointment:

- (1) A State of Mississippi Application completed by the employee; and
- (2) For Executive Directors appointed by the Governor, a letter of appointment which includes the name, the salary amount, and the effective date signed by the Governor or their designee; or
- (3) For Executive Directors appointed by a board or commission, a copy of the official board minutes which includes the name, the salary amount, and the effective date.

### b. Subsequent Salary Increases

Upon approval of the Mississippi State Personnel Board Executive Director, supervisory authorities may increase the salary of an Executive Director at any time after initial appointment by submitting the following documentation:

- (1) A screen print of the appropriate "Change Compensation" screen in SPAHRS; and
- (2) For Executive Directors appointed by the Governor, a letter of appointment which includes the name, the salary amount, and the effective date signed by the Governor or their designee; or
- (3) For Executive Directors appointed by a board or commission, a copy of the official board minutes which includes the name, the salary amount, and the effective date.

In no case will an Executive Director exceed the end salary of the position. However, the salary range of an incumbent Executive Director shall be increased by an amount equal to the educational benchmark(s) awarded under the provisions of Section D.9.d.





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The salary of an incumbent agency head may not be reduced without approval of the Mississippi State Personnel Board.

### c. Executive Salaries Set in Statute

If an Executive Director whose salary is set by statute is transferred or reallocated to an Executive Director position not set in statute, the salary of that individual may be established under the provisions of Section D.7 above.

## 8. Transfers

### a. Promotional Transfers

- (1) The authorized salary for a promotional transfer is determined under provisions governing the Fiscal Year 2021 Promotional Formula, Section D.2.
- (2) Unless otherwise permitted by law, no single event, including promotion, reclassification, or reallocation, shall exceed the greater of (1) the difference between the starting salary of the current classification and the new classification added to the employee's current salary, or (2) the salary that could be paid to an equally qualified, newly hired employee.

### b. Lateral Transfers

- (1) Only lateral transfers in which the employee is changing job classifications will be considered. An agency may request that the MSPB Executive Director, or their designee, waive this policy in certain limited circumstances.
- (2) The authorized salary for a lateral transfer is no more than the current salary before the transfer. However, where the salary authorized for the lateral transfer is less than the salary, which could be authorized for a new hire (ten percent above start), salary flexibility may be awarded under the same criteria set forth under the provisions for "New Hire Flexibility/Promotional Flexibility," Section D.5.b.
- (3) If an employee who has been laterally transferred returns to his/her previous classification within twenty-four (24) months, the employee shall return to his/her salary before the transfer, except as may be adjusted by Legislative increases.



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### c. Demotional Transfers

The authorized salary for any demotional transfer shall be no greater than the difference between the old and the new starting salaries, subtracted from the current salary. However, at agency head discretion, the authorized salary may be reduced to a lower salary within the new job class pay range to ensure equitable compensation with other employees in the same classification.

#### EXAMPLE

Current Salary:	\$18,408.60
Old Start Salary:	\$18,220.80
New Start Salary:	\$12,648.12

$$\$18,220.80 - \$12,648.12 = \$ 5,572.68$$

$$\$18,408.60 - \$ 5,572.68 = \$12,835.92 \text{ MAX}$$

- (1) A written agreement signed by the affected employee shall accompany voluntary demotions.
- (2) A written acknowledgment signed by the affected employee, or a statement from the appointing authority or their designee certifying that the employee has been notified of the demotion, shall accompany involuntary demotions.
- (3) If an employee who has been promoted returns to his/her previous classification within twenty-four (24) months, the employee shall return to his/her salary before the promotion, except as may be adjusted by Legislative increases.
- (4) In extraordinary circumstances, the agency may request the Mississippi State Personnel Board Executive Director to allow the employee to remain at up to his/her current salary as long as the current salary does not exceed up to twenty-five (25) percent above the starting salary of the new classification.
- (5) Where the salary authorized for the demotional transfer is less than the salary which could be authorized for a new hire (ten percent above start), salary flexibility may be awarded under the same criteria set forth under the provisions for "New Hire Flexibility/Promotional Flexibility," Section D.5.b.



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### 9. Policies and Procedures for the Award of Educational Benchmarks for Completion of Training and Development Programs

It is the intent of the Mississippi State Personnel Board to establish policies governing the award of monetary benchmarks for completion of employee training and development programs. These policies are for the purpose of providing employees opportunities to continue acquiring professional skills, knowledge, and expertise.

The Mississippi State Personnel Board Executive Director or their designee is authorized to certify requests to award Educational Benchmark increases on a case-by-case basis. Employees may receive an educational benchmark for the possession or attainment of education, licensure, certification, or registration, which exceed the level of minimum qualifications listed for the employee's assigned job class.

#### a. General Benchmark Policies

- (1) Requests for Educational Benchmark awards are made at the discretion of the agency head.
- (2) No Educational Benchmark shall be awarded for degrees, licensure, certification, or registration, which the incumbent possessed at the time of hire.
- (3) If the employee being awarded an Educational Benchmark is currently at end salary of his or her classification, or should the benchmark cause an employee's salary to exceed end salary, that portion of the benchmark exceeding end salary shall be paid as a one-time lump-sum payment.
- (4) Any new hire flexibility, recruitment flexibility, or other discretionary compensation awarded for, or in anticipation of future educational achievement, licensure, or certification shall not result in a subsequent award of an Educational Benchmark for the same achievement.
- (5) Educational Benchmarks shall not be awarded for degrees, licensure, certifications, or registrations, which are required by law for performance of job duties.

#### b. Degrees

Increases in increments of up to five percent (5%) **may** be awarded to employees obtaining one each of the following degrees: Associate's, Bachelor's (in no case shall the cumulative award for the achievement of an



## VCP21

Associate's Degree and a Bachelor's Degree exceed five percent (5%), Master's, Specialist and Doctoral.

c. Licensure/Certification/Registration

Increases of up to five percent (5%) **may** be awarded to employees acquiring licensure, certification, or registration **directly related** to their jobs.

Generally, employees in information technology classifications may only receive increases related to the completion of educational degrees, the Basic Supervisory Course, the Certificate in Supervisory Management, the Certified Public Manager program, and the Stennis Executive Development Institute. However, an employee may be awarded an increase for obtaining a certification developed and administered by their employing agency, which is directly related to the mission of the agency.

d. Educational Benchmarks for Executive Directors

In accordance with Section 25-3-34 of the *Mississippi Code Annotated*, in addition to the salary established by the Mississippi State Personnel Board for agency heads previously included in Section 25-3-33 (said section now repealed), agency heads may receive the award of educational benchmarks as defined in Mississippi State Personnel Board rules for the possession or attainment of any of the following:

- (1) The Certified Public Manager designation;
- (2) A job-related PhD (Doctor of Philosophy) degree which is not required as a minimum qualification of the position;
- (3) A job related certification, licensure, or registration requiring the passage of an examination, which is not required as a minimum qualification of the position.

No such official may receive more than a total of three (3) eligible benchmarks, only one of which may be for a job related certification, licensure or registration.

The end salary may be extended to accommodate educational benchmark increases as provided for in *Mississippi Code Annotated* § 25-3-34.



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### 10. Special Compensation Plans

Authorization to implement special compensation plans during Fiscal Year 2021 shall be limited. Only special compensation plans reviewed **prior to the start of Fiscal Year 2021** and approved by the Mississippi State Personnel Board for implementation or continuation during the fiscal year shall be certified.

Further, to qualify for a teacher pay increase, agencies must complete Form SPC- 0705 (Attached), which certifies that recipients of increases are performing duties directly related to the education of patients/clients.

### 11. Additional Compensation

Certification of additional compensation shall be limited to those forms of additional compensation previously approved by the Mississippi State Personnel Board, with the exception of call-back/overtime pay and any other form of compensation that may be subject to the Fair Labor Standards Act during Fiscal Year 2021. The Mississippi State Personnel Board shall consider other requests for additional compensation where the requests are justified by demonstrating that delayed implementation would seriously impair critical agency operations. The Mississippi State Personnel Board shall not consider new requests to undertake additional compensation not currently authorized except as a bona fide staffing need or as a part of the Fiscal Year 2021 Budget Request.

### 12. Salary Increases Which Exceed the Agency Head

In accordance with Section 25-3-39 of the *Mississippi Code Annotated*:

(1) (a) Except as otherwise provided in this section, no public officer, public employee, administrator, or executive head of any arm or agency of the state, in the executive branch of government, shall be paid a salary or compensation, directly or indirectly, greater than one hundred fifty percent (150%) of the maximum salary fixed in Section 25-3-31 for the Governor, nor shall the salary of any public officer, public employee, administrator, or executive head of any arm or agency of the state, in the executive branch of government, be supplemented with any funds from any source, including federal or private funds. Such salaries shall be completely paid by the state. All academic officials, members of the teaching staffs and employees of the state institutions of higher learning, the Mississippi Community College Board, and community and junior colleges, and licensed physicians who are public employees, shall be exempt from this subsection. All professional employees who hold a bachelor's degree



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or more advanced degree from an accredited four-year college or university or a certificate or license issued by a state licensing board, commission or agency and who are employed by the Department of Mental Health shall be exempt from this subsection if the State Personnel Board approves the exemption. The Commissioner of Child Protection Services is exempt from this subsection. From and after July 1, 2018, the Executive Director of the Public Employees' Retirement System and the Chief Investment Officer of the Public Employees' Retirement System shall be exempt from this subsection.

(b) The Governor shall fix the annual salary of the Executive Director of the Mississippi Development Authority, the annual salary of the Commissioner of Child Protection Services, and the annual salary of the Chief of Staff of the Governor's Office. The salary of the Governor's Chief of Staff shall not be greater than one hundred fifty percent (150%) of the salary of the Governor and shall be completely paid by the state without supplementation from another source. The salary of the Executive Director of the Mississippi Development Authority may be greater than one hundred fifty percent (150%) of the salary of the Governor and may be supplemented with funds from any source, including federal or private funds; however, any state funds used to pay the salary of the Executive Director of the Mississippi Development Authority shall not exceed one hundred fifty percent (150%) of the salary of the Governor. If the executive director's salary is supplemented with private funds, the Mississippi Development Authority shall publish on its website the amount of the supplement and the name of the donor of the private funds.

(2) No public officer, employee or administrator shall be paid a salary or compensation, directly or indirectly, in excess of the salary authorized to be paid the executive head of the state agency or department in which he/she is employed. The State Personnel Board, based upon its findings of fact, may exempt physicians and actuaries from this subsection when the acquisition of such professional services is precluded based on the prevailing wage in the relevant labor market.

(3) The executive head of any state agency or department appointed by the Governor, in such executive head's discretion, may waive all or any portion of the salary or compensation lawfully established for the position.



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- a. Compensation, for purposes of this section, is defined as the employee's base salary and any additional or special compensation, less paid fringe, authorized by state or federal law or as otherwise provided in Mississippi State Personnel Board policy. Further, agencies are required to ensure that all employees subject to the overtime provisions of the Fair Labor Standards Act of 1938, as amended, are not scheduled to work hours that could cause the employee's total annual compensation to exceed that of the governor or the agency director.
- b. In reference to the language contained in Section 25-3-39 (1)(a) above, the Mississippi State Personnel Board shall review requests for salary exemption from the Department of Mental Health for employees who hold a bachelor's degree or more advanced degree from an accredited four-year college or university or a certificate or license issued by a state licensing board, commission or agency on a case-by-case basis.

In reference to the language contained in Section 25-3-39 (2) above, the Mississippi State Personnel Board has determined that the salaries of physicians and actuaries are exempt from Section 25-3-39 of the *Mississippi Code Annotated*. The implementation of any statutory exemption must be based upon a finding of fact by the Mississippi State Personnel Board.

### 13. Reappointments for Employees Returning From an Authorized Leave of Absence without Pay

The authorized salary for an individual returning from an authorized leave of absence to the same job class from which the individual was separated, and within twelve (12) months of separation, is no more than the current salary at the time of the separation, except as may be adjusted by any salary increase authorized by the Legislature and/or through realignment.

### 14. Reemployment for Employees Returning to State Service after Separation in Good Standing

- a. The authorized salary for an individual returning to state service employment within the same job class from which the individual was separated is no more than the current salary at the time of the separation, except as may be adjusted by any salary increase authorized by the Legislature and/or through realignment.
- b. The authorized salary for an individual returning to state service employment but to another job classification is determined under



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provisions for "Original Appointments," Section D.5., without regard to the initial reasons for separation.

### **E. Performance Review Assessment (PRA) Requirements**

A current PRA rating shall be on file and be provided with, or submitted prior to, requests for processing personnel actions.

If you have any questions regarding the Variable Compensation Plan, please contact the Office of Human Capital Core Processes at (601) 359-1406.





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Form X16-0700

**ACKNOWLEDGEMENT OF AGENCY HEAD FLEXIBILITY INCREASE**

I acknowledge by my signature that I have received the Agency Head Flexibility increase below indicated and have reviewed and understand the following guidelines:

- a. I understand that I am classified as non-state service (Exclude Code 16), and therefore, do not have property rights to employment in state government;
- b. I understand that Mississippi State Personnel Board policies and procedures change annually (or more frequently), that such changes or revisions are forwarded to agency heads for dissemination to all employees, and that I am responsible for keeping informed of such changes or revisions;
- c. I understand that the salary determination procedures, and any other policy and procedure provisions, may change without prior notice;
- d. I understand that transfer, reallocation, demotion, agency reorganization or other action may result in the change of my Exclude Code 16 status, and the subsequent loss of my Agency Head Flexibility money; and
- e. I understand that if I leave or am removed from the non-state service status (Exclude Code 16), my salary will be calculated by determining what my salary would have been had I not received an Agency Head Flexibility increase.

Agency Head Flexibility Increase Recipient	Date	Increase Amount
		\$
Agency Head	Date	New Salary
		\$



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Form SPC-0705

**CERTIFICATION OF ACADEMIC TEACHER DUTIES**

I acknowledge by my signature that I am acting in the capacity of an Academic Teacher in my respective position, and I have reviewed and understand the following guidelines for receipt of an increase as outlined in *Mississippi Code Annotated* § 37-19-7.

- a. I understand that I am classified in an academic teacher classification, and thus possess a Class A, AA, AAA, or AAAA teaching certificate;
- b. I certify that I am directly responsible for the instruction of students in various academic courses offered in an institutional setting;
- c. I understand that the salary determination procedures, and any other policy and procedure provisions, may change without prior notice; and
- d. I understand that transfer, reallocation, demotion, agency reorganization or other action may result in the change of my academic teacher status, and the subsequent cessation of teacher pay increases.

Minimum Programs Recipient/Classification		Increase Amount
		\$
Agency Head	Date	



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## Variable Compensation Plan for FY 2021

**TO:** Elected Officials, Agency Directors and Personnel Officers  
State Government Agencies

**FROM:** Kelly Hardwick  
Mississippi State Personnel Board Executive Director

**DATE:** July 16, 2020

**SUBJECT: ADMINISTRATION OF THE VARIABLE COMPENSATION PLAN FOR FISCAL YEAR 2021**

**A. Statement of Purpose**

Administration of the Variable Compensation Plan for Fiscal Year 2021 shall be governed by policies and procedures contained herein. These provisions shall supersede all conflicting policies and procedures for administration of salaries published in the *Mississippi State Personnel Board Policy and Procedures Manual*, any additional or replacement manuals, and all subsequent changes to the manual, effective as of close of business on June 30, 2020, and shall become an official attachment to the *Mississippi State Personnel Board Policy and Procedures Manual* for Fiscal Year 2021.

The increase or decrease of any salary under the salary setting authority of the Mississippi State Personnel Board shall comply with the policies below except where Legislative authority specifies otherwise.

The development of the following policies is based upon implementation of Legislative intent as expressed in the following language contained in state service agencies' appropriation acts:

With the funds herein appropriated, it shall be the agency's responsibility to make certain that funds required to be appropriated for "Personal Services" for Fiscal Year 2022 do not exceed Fiscal Year 2021 funds appropriated for that purpose, unless programs or positions are added to the agency's Fiscal Year 2021 budget by the Mississippi Legislature. Based on data provided by the Legislative Budget Office, the State Personnel Board shall determine and publish the projected annual cost to fully fund all appropriated positions in compliance with the provisions of this act. Absent a special situation or circumstance approved by the State Personnel Board, or unless otherwise authorized by this act, no state agency shall take



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any action to promote or otherwise award salary increases through reallocation, reclassification, or realignment. If the State Personnel Board determines a special situation or circumstance exists and approves an action, then the agency and the State Personnel Board shall provide a monthly report of each action approved by the State Personnel Board to the Chairmen of the Accountability, Efficiency and Transparency Committees of the Senate and House of Representatives and the Chairmen of the Appropriations Committees of the Senate and House of Representatives. It shall be the responsibility of the agency head to ensure that no single personnel action increases this projected annual cost and/or the Fiscal Year 2020 appropriations for "Personal Services" when annualized, with the exception of escalated funds and the award of benchmarks. If, at the time the agency takes any action to change "Personal Services," the State Personnel Board determines that the agency has taken an action which would cause the agency to exceed this projected annual cost or the Fiscal Year 2021 "Personal Services" appropriated level, when annualized, then only those actions which reduce the projected annual cost and/or the appropriation requirement will be processed by the State Personnel Board until such time as the requirements of this provision are met.

Any transfers or escalations shall be made in accordance with the terms, conditions and procedures established by law or allowable under the terms set forth within this act. The State Personnel Board shall not escalate positions without written approval from the Department of Finance and Administration. The Department of Finance and Administration shall not provide written approval to escalate any funds for salaries and/or positions without proof of availability of new or additional funds above the appropriated level.

No general funds authorized to be expended herein shall be used to replace federal funds and/or other special funds which are being used for salaries authorized under the provisions of this act and which are withdrawn and no longer available.

None of the funds herein appropriated shall be used in violation of the Internal Revenue Service's Publication 15-A relating to the reporting of income paid to contract employees, as interpreted by the Office of the State Auditor.

Where the Legislature has authorized agency-specific exemptions and/or designated agency-specific actions that may be processed for FY 2021, the Mississippi State Personnel Board will process those transactions within the parameters provided by the Legislature.



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**B. Coverage of these Policies**

1. These policies shall govern employee salary increases and position changes for:
  - a. State service employees and positions;
  - b. Non-state service employees and positions excluded from the state service by *Mississippi Code Annotated* § 25-9-107(c), but subject to Mississippi State Personnel Board salary setting authority as listed below:
    - (1) Part-time employees and positions [Refer, *Mississippi Code Annotated* § 25-9-107 (c)(xi)];
    - (2) Persons appointed on an emergency basis [Refer, *Mississippi Code Annotated* § 25-9-107 (c)(xii)];
    - (3) Time-limited employees and positions [Refer, *Mississippi Code Annotated* § 25-9-107 (c)(xiv)];
    - (4) Administrative heads appointed by the Governor, board, commission or other authority, unless otherwise fixed by statute [Refer, *Mississippi Code Annotated* § 25-9-107 (c)(xv)];
    - (5) Administrative officers, deputies, bureau chiefs, and directors and their positions [Refer, *Mississippi Code Annotated* § 25-9-107 (c)(xvi)];
    - (6) Personnel employed by the Mississippi Department of Wildlife, Fisheries and Parks and the Mississippi Department of Marine Resources as law enforcement trainees (cadets) [Refer, *Mississippi Code Annotated* § 25-9-107 (c)(xxi)]; and
  - c. Non-state service employees excluded from the state service by *Mississippi Code Annotated* § 25-9-127, but subject to Mississippi State Personnel Board salary setting authority as listed below:
    - (1) Employees of the Department of Human Services for a period of four years beginning July 1, 2016, pursuant to *Mississippi Code Annotated* § 25-9-127; and
    - (2) Employees of the Department of Child Protection Services for a period of four years beginning July 1, 2016, pursuant to *Mississippi Code Annotated* § 25-9-127.



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2. Agencies or positions with statutory exclusion (not under the salary setting authority of the Mississippi State Personnel Board and not subject to the compensation policies of this memorandum) are listed below:
  - a. Non-state service agencies [Refer, *Mississippi Code Annotated* §§ 25-9- 107 (c)(i), (ii), (iii), (iv), (vii), (viii), and (xvii)];
  - b. Non-state service occupations [Refer, *Mississippi Code Annotated* § 25-9- 107 (c)(v), (vi), (ix), and (xiii)];
  - c. Non-state service positions of associate director, deputy directors and bureau directors within the Department of Agriculture and Commerce [Refer, *Mississippi Code Annotated* § 25-9-107 (c)(xix)];
  - d. Non-state service positions of deputy superintendents, associate superintendents and divisional directors within the State Department of Education [Refer, *Mississippi Code Annotated* § 37-3-13 (1)];
  - e. Non-state service positions of associate directors, deputy directors and bureau directors within the Mississippi Development Authority [Refer, *Mississippi Code Annotated* § 57-1-5 (3)(c)(xi)]; and
  - f. The President of the Mississippi Lottery Corporation and personnel employed by the Mississippi Lottery Corporation. [Refer, *Mississippi Code Annotated* § 25-9-107 (c)(xxii)];
3. Salaries set by statute shall be implemented strictly in accordance with Legislative intent [Refer, *Mississippi Code Annotated* §§ 25-3-31 and 25-3-35].

### C. **Policy Provisions for Implementation of Legislative Intent**

#### 1. Realignment

Funds were not appropriated for all agencies, boards, and commissions for this component of the Variable Compensation Plan for Fiscal Year 2021.

#### 2. In-service Cost of Living Allowance (COLA)

Funds were not appropriated for all agencies, boards, and commissions for this component of the Variable Compensation Plan for Fiscal Year 2021.



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### 3. Reallocations

Funds were not appropriated for all agencies, boards, and commissions for this component of the Variable Compensation Plan for Fiscal Year 2021.

### 4. Longevity

Funds were not appropriated for all agencies, boards, and commissions for this component of the Variable Compensation Plan for Fiscal Year 2021.

### 5. Productivity

Funds were not appropriated for all agencies, boards, and commissions for this component of the Variable Compensation Plan for Fiscal Year 2021.

### 6. No Increase to Appropriated Dollars or Projected Annual Cost

On or about July 1, 2021, the Mississippi State Personnel Board staff shall publish the projected annual cost to fully fund all appropriated positions.

- a. It shall be the responsibility of the agency head to ensure that no single personnel action increases this projected annual cost and/or the Fiscal Year 2021 appropriations for "Personal Services" when annualized, with the exception of escalated funds and the award of benchmarks.
- b. At the end of each day, the Mississippi State Personnel Board will publish a report indicating the flexibility available to each agency with regard to the projected annual cost or the appropriated dollars.
- c. If the Mississippi State Personnel Board determines the agency has taken an action that would cause the agency to exceed this projected annual cost or the Fiscal Year 2021 "Personal Services" appropriated level when annualized, with the exception of escalated funds and the award of benchmarks, then any subsequent action will not be processed until such time as the agency has sufficiently reduced the projected annual cost and/or the appropriation requirement.
- d. This language is not intended to stop the escalation of time-limited positions and the award of benchmarks. Escalations and the award of benchmarks shall not be considered to cause an agency to exceed the established limits and will not be accounted for in the reports relative to this language.



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### **D. Scope of Mississippi State Personnel Board Executive Director Authority**

#### 1. Requests for Action

All requests for action under the Variable Compensation Plan for Fiscal Year 2021 shall cite the section of the policy which authorizes such requests and action by the Mississippi State Personnel Board.

#### 2. Fiscal Year 2021 Promotional Formula

The Fiscal Year 2021 Promotional Formula shall be applied for promotional transfers, upward reallocations, upward reclassifications, and realignments as directed below. The promotional formula is utilized for the purpose of calculating the promotional max salary. **The actual award up to the max salary is at the discretion of the agency head.** The promotional max salary is the maximum that may be awarded. Unless otherwise permitted by law, no single event, including promotion, reclassification or reallocation, shall exceed the greater of (1) the difference between the starting salary of the current classification and the new classification added to the employee's current salary, or (2) the salary that could be paid to an equally qualified, newly hired employee. The authorized salary for promotion to a vacant position is determined under the following provisions:

- a. When the current salary is greater than the old starting salary, the PRO MAX is equal to the difference between the old and the new starting salaries added to the current salary.

#### **EXAMPLE**

Current Salary:	\$18,220.80
Old Start Salary:	\$12,648.12
New Start Salary:	\$18,408.60

$$\$18,408.60 - \$12,648.12 = \$ 5,760.48$$

$$\$ 5,760.48 + \$18,220.80 = \$23,981.28 \text{ PRO MAX}$$

- b. When the current salary is less than or equal to the old starting salary, PRO MAX is equal to the start salary of the new position.
- c. Where the promotional increase authorized under the promotional formula is less than the salary that could be authorized for a new hire (ten percent above start), Promotional Flex may be awarded under the same criteria set forth under the provisions for "New Hire Flexibility/Promotional





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Flexibility," Section D.5.b.

- d. The promotional maximum (PRO MAX) should not exceed the end salary of the classification to which promoted.
- e. For realignments, maximum eligibility shall be the difference between the old and new starting salaries.

### 3. Reallocations and Realignment

All requests for reallocation and realignment must be justified and submitted by the requesting agency as outlined in the *Mississippi State Personnel Board Policy and Procedures Manual* for approval by the Mississippi State Personnel Board or the Mississippi State Personnel Board Executive Director or their designee.

Agencies with misclassified positions may include requests for reallocation in their Fiscal Year 2021 Budget Request. However, each agency head shall have the opportunity to document the immediate need for a reallocation by demonstrating that a bona fide staffing need exists that cannot be adequately addressed through normal budget procedures. The Mississippi State Personnel Board will consider reallocations outside the Legislative process only upon certification by the agency director that adequate funds are available.

For filled positions, agencies must submit a copy of a State of Mississippi Application, completed, and signed by the incumbent with a screen print of the appropriate "Reallocation/Reclassification" screen stapled to the front. Only those individuals meeting the education and experience requirements as reflected in the minimum qualifications of the job class will be reallocated. In those cases where individuals do not meet the minimum qualifications for the job classification to which the position is to be reallocated, agencies must resubmit the requested reallocation in their Fiscal Year 2021 Budget Request, if such reallocation is still required.

If an employee who has received a reallocation returns to his/her previous classification within twenty-four (24) months, the employee shall return to his/her salary before the reallocation, except as may be adjusted by Legislative increases.

Reallocations not submitted in accordance with these provisions shall be returned without action.

#### a. Upward Reallocations

Per appropriations language, absent a special situation or circumstance approved by the State Personnel Board, no state agency shall take any



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action to promote or otherwise award salary increases through reallocation of filled or vacant positions. If the State Personnel Board determines a special situation or circumstance exists and approves an action, then the agency and the State Personnel Board shall provide a monthly report of each action approved by the State Personnel Board to the Chairmen of the Accountability, Efficiency and Transparency Committees of the Senate and House of Representatives and the Chairmen of the Appropriations Committees of the Senate and House of Representatives.

The Mississippi State Personnel Board Executive Director shall evaluate the requested classification and shall make recommendations to the Mississippi State Personnel Board as to the action to be taken on a request for the upward reallocation of any position. Select classifications at the Department of Child Protection Services, Correctional Officers at the Department of Corrections, the Direct Care Series at Mental Health and Mississippi Veterans Affairs, and positions assigned to the Driver Services Bureau at the Department of Public Safety are established as special circumstances and will maintain this status for Fiscal Year 2021. The reallocation of positions in these categories may be approved by the Executive Director or his designee and reported to the Mississippi State Personnel Board monthly.

Requests for upward reallocations for Information Technology classifications shall also be considered on a case-by-case basis by the Mississippi State Personnel Board with recommendation by the Information Technology Professional Development Committee (ITPDC). See the *Administrative Policies and Procedures for the Special Compensation Plan for Information Technology Classifications for Fiscal Year 2021*.

- (1) Reallocations which require Mississippi State Personnel Board Executive Director or their designee's approval must be accompanied by **detailed** on-line justification. The agency must also submit to MSPB staff, the appropriate Job Content section(s) of the Performance Review Assessment or Role Description Questionnaire(s); organizational chart page(s), with a screen print of the "Reallocation/Reclassification" attached; copies of any relevant federal or state regulations, case law, or statutes; and justification for any change from non-state service to state service, or the reverse. **Agencies are encouraged to submit all required documentation electronically.**
- (2) Reallocations which require Mississippi State Personnel Board approval must include those items listed in subsection (1) above, as well



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as a detailed letter of justification signed by the agency head or their designee.

Those reallocations, which were recommended in the Fiscal Year 2021 Budget Request but were not appropriated for Fiscal Year 2021, may be entered into the "Position" screen (PO MP RR) of SPAHRS, at the discretion of the appointing authority, on or after July 1, 2020, provided said reallocation is cost neutral in compliance with Section C.6. The on-line notes must identify the position(s) as approved but not funded. No further documentation is required with the exception of a copy of a State of Mississippi Application for a filled position.

### b. Lateral Reallocations

All lateral reallocations must be justified and submitted by the requesting agency in accordance with Mississippi State Personnel Board policies and procedures. The authorized salary for the lateral reallocation of a filled position is no more than the current salary before the reallocation. However, where the salary authorized for the lateral reallocation is less than the salary which could be authorized for a new hire (ten percent above start), salary flexibility may be awarded under the same criteria set forth under the provisions for "New Hire Flexibility/Promotional Flexibility," Section D.5.b.

### c. Downward Reallocations

All downward reallocations must be justified and submitted by the requesting agency in accordance with Mississippi State Personnel Board policies and procedures. The salary authorized for the downward reallocation of a **filled** position is determined by the following method:

- (1) The authorized salary for any downward reallocation shall be no greater than the difference between the old and the new starting salaries, subtracted from the current salary. However, at agency head discretion, the authorized salary may be reduced to a lower salary within the pay range of the new job class to ensure equitable compensation with other employees in the same classification. A written acknowledgement signed by the affected employee shall accompany all downward reallocations.



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**EXAMPLE**

Current Salary: \$18,408.60  
Old Start Salary: \$18,220.80  
New Start Salary: \$12,648.12

$\$18,220.80 - \$12,648.12 = \$ 5,572.68$

$\$18,408.60 - \$ 5,572.68 = \$12,835.92$  MAX

- (2) In extraordinary circumstances, the agency may request the Mississippi State Personnel Board Executive Director to allow the employee to remain at up to his/her current salary as long as the current salary does not exceed up to twenty-five (25) percent above the starting salary of the new classification.
- (3) Where the salary authorized for the downward reallocation is less than the salary which could be authorized for a new hire (ten percent above start), salary flexibility may be awarded under the same criteria set forth under the provisions for “New Hire Flexibility/Promotional Flexibility,” Section D.5.b.
- (4) A written agreement signed by the affected employee shall accompany voluntary downward reallocations.
- (5) A written acknowledgment signed by the affected employee, or a statement from the appointing authority or their designee certifying that the employee has been notified of the downward reallocation, shall accompany involuntary downward reallocations.

d. Non-Appropriated Realignment

Per appropriations language, absent a special situation or circumstance approved by the State Personnel Board, no state agency shall take any action to promote or otherwise award salary increases through realignment of filled or vacant positions. If the State Personnel Board determines a special situation or circumstance exists and approves an action, then the agency and the State Personnel Board shall provide a monthly report of each action approved by the State Personnel Board to the Chairmen of the Accountability, Efficiency and Transparency Committees of the Senate and House of Representatives and the Chairmen of the Appropriations Committees of the Senate and House of Representatives. Select classifications at the Department of Child Protection Services, Correctional Officers at the Department of Corrections, the Direct Care Series at Mental Health and Mississippi Veterans Affairs, and positions



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assigned to the Driver Services Bureau at the Department of Public Safety are established as special circumstances and will maintain this status for Fiscal Year 2021. Realignment of classifications in these categories require Mississippi State Personnel Board approval.

The Mississippi State Personnel Board may approve realignments only if a bona fide and verifiable staffing crisis has arisen due to a substantial increase in salaries in the relevant labor market for the subject job class. In such instances, the agency must provide salary survey data compiled from an acceptable relevant labor market and must justify that delayed implementation of the regular realignment would seriously threaten critical agency services.

Generally, only those job classifications which are specific to the requesting agency, will be considered for non-appropriated realignment. However, realignment of generic classes will be considered in the case of extraordinary circumstances, such as court-ordered or legislatively mandated realignment occurring outside the normal budget cycle.

#### 4. Reclassifications

Per appropriations language, absent a special situation or circumstance approved by the State Personnel Board, no state agency shall take any action to promote or otherwise award salary increases through the upward reclassification of filled or vacant positions. If the State Personnel Board determines a special situation or circumstance exists and approves an action, then the agency and the State Personnel Board shall provide a monthly report of each action approved by the State Personnel Board to the Chairmen of the Accountability, Efficiency and Transparency Committees of the Senate and House of Representatives and the Chairmen of the Appropriations Committees of the Senate and House of Representatives. Select classifications at the Department of Child Protection Services, Correctional Officers at the Department of Corrections, the Direct Care Series at Mental Health and Mississippi Veterans Affairs, and positions assigned to the Driver Services Bureau at the Department of Public Safety are established as special circumstances and will maintain this status for Fiscal Year 2021. The reallocation of positions in these categories may be approved by the Executive Director or his designee and reported to the Mississippi State Personnel Board monthly.

In certain limited circumstances, agency heads may be granted authority by the Mississippi State Personnel Board to reclassify positions within a class series. Once reclassification authority is approved by the Mississippi State Personnel Board, reclassification actions may be implemented at the discretion of the agency head. Each year on a date prior to fiscal year conversion, the Mississippi State Personnel Board allows each agency to submit requests for changes to the authorized schedule of



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reclassifications. Only reclassifications of classes that are on the authorized reclassification list shall be implemented.

### 5. Original Appointments

#### a. Standard New Hire Salary

The authorized salary for a new hire is at or below the starting salary assigned the class in which employed. At the agency head's discretion, a request to increase an employee's salary to the starting salary may be submitted at any time. At no time will a new employee be hired below the federally mandated minimum wage of \$7.25 per hour.

#### b. New Hire Flexibility/Promotional Flexibility

New Hire Flexibility or Promotional Flexibility may be awarded by the Executive Director when the education, experience, or professional certification possessed by the applicant or employee exceeds the minimum requirements for the job classification to which appointed.

Agency heads may request to the Mississippi State Personnel Board Executive Director on a case-by-case basis the award of New Hire Flexibility or Promotional Flexibility. The justification that accompanies each individual request to apply New Hire Flexibility or Promotional Flexibility should specifically address why it is of greater value for the agency to employ persons with experience, education, or professional certification which exceeds the minimum qualifications of the job classification, along with a synopsis of the extraordinary qualifications of the candidate in relation to the minimum qualifications of the classification. Agencies should also include their methodology for determining the award of New Hire Flexibility or Promotional Flexibility.

When awarding New Hire Flexibility or Promotional Flexibility, a review of employees in the same agency and job classification should be made to determine that there would be no salary inequity between individuals who possess the same qualifications. Should the flexibility cause a salary inequity, the agency may request consideration from the Mississippi State Personnel Board Executive Director to award similar flexibility to affected employees.

New Hire Flexibility or Promotional Flexibility shall be computed and awarded using the methodology outlined below or the methodology submitted by the agency, not to exceed the maximums outlined in the criteria below:



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- (1) Additional directly related experience of at least one year is valued up to a maximum of five percent (5%); and/or

Additional directly related education of at least one year is valued up to a maximum of five percent (5%); and/or

Professional certification directly related, but in excess of any certification required in the minimum requirements of the job classification, is valued up to a maximum of five percent (5%). However, the maximum percentage allowed for a certification shall not exceed the approved benchmark amount set for that certification.

- (2) The total cumulative New Hire Flexibility or Promotional Flexibility award for any combination of experience, education, or certification shall not exceed ten percent (10%) above the starting salary of the classification.
- (3) A SPAHRS screen print of the New Hire Flexibility or Promotional Flexibility request attached to a State of Mississippi Application must be forwarded to the Mississippi State Personnel Board.
- (4) New Hire Flexibility or Promotional Flexibility awards will not be approved in conjunction with job classifications authorized for Recruitment Flexibility.
- (5) In circumstances which may be justified, the agency may request to the Mississippi State Personnel Board Executive Director to allow more than the maximum of five percent (5%) for additional directly related experience or more than the maximum of five percent (5%) for additional related education. However, under no circumstances shall the total cumulative New Hire Flexibility or Promotional Flexibility award for any combination of experience, education, or certification exceed ten percent (10%).

### c. Agency Head Flexibility

Agency Head Flexibility may be awarded to individuals who report directly to the agency head or a key excluded official or advocate substantive agency policy. Requests for Agency Head Flexibility must meet the following criteria:

- (1) An employee must be classified in the non-state service under Section 25-9-107 (c)(xvi) of the *Mississippi Code Annotated*.



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- (2) Agency Head Flexibility increases shall not exceed 25% above the starting salary of the classification. The total cumulative New Hire Flexibility or Promotional Flexibility award and the total cumulative Agency Head Flexibility increase together shall not exceed 25% above the starting salary of the classification.
- (3) If an individual who has received Agency Head Flexibility leaves the Exclude Code 16 position, his/her salary shall be calculated by determining what the salary would have been had he/she not received Agency Head Flexibility.
- (4) Requests for Agency Head Flexibility increases shall be accompanied by the following documentation:
  - (a) Online description of the amount awarded;
  - (b) A signed statement from the employee acknowledging the non-state service status, the amount of salary increase, and the subsequent salary withdrawal upon removal from non-state service status. (See Attached Form X16-0700.)

### d. Recruitment Flexibility

- (1) All requests to recruit applicants at a salary exceeding the assigned starting salary are to be submitted for Mississippi State Personnel Board approval prior to a job offer or appointment of an applicant. Such a request shall be accompanied by a letter of justification from the agency head describing documented recruitment difficulties experienced by the agency.

The recruitment difficulties recognized by the Board include, but are not limited to:

- (a) Documented recruitment difficulties for a job class which may be attributed to the established minimum or special qualifications of a job; and/or
- (b) Insufficient labor market availability of qualified applicants and/or availability of a limited applicant pool complicated by a salary range for the job, which is not competitive with the relevant labor market.





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Misclassification of a position shall not be used as the basis for a recruitment flexibility request.

- (2) Requests for recruitment flexibility approved by the Mississippi State Personnel Board for an entire classification or for a specific position shall be valid for a period of twenty-four (24) months from the effective date of approval. If the agency is unable to fill the position within the twenty-four (24) month period, the Mississippi State Personnel Board Executive Director may authorize an extension of the recruitment flexibility for an additional twenty-four (24) months.
- (3) If within twelve (12) months from the date of hire, the incumbent of a position which has been authorized for recruitment flexibility transfers to a position which has not been authorized for recruitment flexibility, the salary at transfer shall be established by calculating what the incumbent's salary would have been had the position from which he/she transferred not been authorized for recruitment flexibility.
- (4) At the time of hire, the agency shall submit a written acknowledgment signed by the affected employee certifying that he/she has been notified of and fully understands the recruitment flexibility policies and salary calculations.

When awarding Recruitment Flexibility, a review of employees in the same agency and job classification series should be made to determine that there would be no salary inequity between current employees and employees hired using recruitment flexibility. Should the flexibility cause a salary inequity, the agency may request consideration from the Mississippi State Personnel Board Executive Director to award similar flexibility to affected employees.

### 6. Appointment of New Hires from Agencies or Classifications Not Under the Purview of the Mississippi State Personnel Board

The authorized salary for an individual hired from a State agency or classification not under the purview of the Mississippi State Personnel Board into an agency/classification under the purview of the Mississippi State Personnel Board shall be determined under the provisions for "Original Appointments," Section D.5.

### 7. Appointment of Executive Directors

For the purposes of this section, the supervisory authority is the individual, board or commission which may terminate an agency head either at will or through due process



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as specified by legislation. For agencies where no supervisory authority is specified, the Mississippi State Personnel Board will set the salary of the agency head.

### a. Initial Salary

The supervisory authority responsible for appointing each Executive Director shall have the flexibility at the time of hire to establish the salary of the appointed official within the appropriate pay range. The salary should be based upon factors directly related to job performance such as previous work experience and educational attainment. The following documentation shall be submitted at the time of the appointment:

- (1) A State of Mississippi Application completed by the employee; and
- (2) For Executive Directors appointed by the Governor, a letter of appointment which includes the name, the salary amount, and the effective date signed by the Governor or their designee; or
- (3) For Executive Directors appointed by a board or commission, a copy of the official board minutes which includes the name, the salary amount, and the effective date.

### b. Subsequent Salary Increases

Upon approval of the Mississippi State Personnel Board Executive Director, supervisory authorities may increase the salary of an Executive Director at any time after initial appointment by submitting the following documentation:

- (1) A screen print of the appropriate “Change Compensation” screen in SPAHRS; and
- (2) For Executive Directors appointed by the Governor, a letter of appointment which includes the name, the salary amount, and the effective date signed by the Governor or their designee; or
- (3) For Executive Directors appointed by a board or commission, a copy of the official board minutes which includes the name, the salary amount, and the effective date.

In no case will an Executive Director exceed the end salary of the position. However, the salary range of an incumbent Executive Director shall be increased by an amount equal to the educational benchmark(s) awarded under the provisions of Section D.9.d.



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The salary of an incumbent agency head may not be reduced without approval of the Mississippi State Personnel Board.

### c. Executive Salaries Set in Statute

If an Executive Director whose salary is set by statute is transferred or reallocated to an Executive Director position not set in statute, the salary of that individual may be established under the provisions of Section D.7 above.

## 8. Transfers

### a. Promotional Transfers

- (1) The authorized salary for a promotional transfer is determined under provisions governing the Fiscal Year 2021 Promotional Formula, Section D.2.
- (2) Unless otherwise permitted by law, no single event, including promotion, reclassification, or reallocation, shall exceed the greater of (1) the difference between the starting salary of the current classification and the new classification added to the employee's current salary, or (2) the salary that could be paid to an equally qualified, newly hired employee.

### b. Lateral Transfers

- (1) Only lateral transfers in which the employee is changing job classifications will be considered. An agency may request that the MSPB Executive Director, or their designee, waive this policy in certain limited circumstances.
- (2) The authorized salary for a lateral transfer is no more than the current salary before the transfer. However, where the salary authorized for the lateral transfer is less than the salary, which could be authorized for a new hire (ten percent above start), salary flexibility may be awarded under the same criteria set forth under the provisions for "New Hire Flexibility/Promotional Flexibility," Section D.5.b.
- (3) If an employee who has been laterally transferred returns to his/her previous classification within twenty-four (24) months, the employee shall return to his/her salary before the transfer, except as may be adjusted by Legislative increases.



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### c. Demotional Transfers

The authorized salary for any demotional transfer shall be no greater than the difference between the old and the new starting salaries, subtracted from the current salary. However, at agency head discretion, the authorized salary may be reduced to a lower salary within the new job class pay range to ensure equitable compensation with other employees in the same classification.

#### EXAMPLE

Current Salary:	\$18,408.60
Old Start Salary:	\$18,220.80
New Start Salary:	\$12,648.12

$$\$18,220.80 - \$12,648.12 = \$ 5,572.68$$

$$\$18,408.60 - \$ 5,572.68 = \$12,835.92 \text{ MAX}$$

- (1) A written agreement signed by the affected employee shall accompany voluntary demotions.
- (2) A written acknowledgment signed by the affected employee, or a statement from the appointing authority or their designee certifying that the employee has been notified of the demotion, shall accompany involuntary demotions.
- (3) If an employee who has been promoted returns to his/her previous classification within twenty-four (24) months, the employee shall return to his/her salary before the promotion, except as may be adjusted by Legislative increases.
- (4) In extraordinary circumstances, the agency may request the Mississippi State Personnel Board Executive Director to allow the employee to remain at up to his/her current salary as long as the current salary does not exceed up to twenty-five (25) percent above the starting salary of the new classification.
- (5) Where the salary authorized for the demotional transfer is less than the salary which could be authorized for a new hire (ten percent above start), salary flexibility may be awarded under the same criteria set forth under the provisions for "New Hire Flexibility/Promotional Flexibility," Section D.5.b.



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### 9. Policies and Procedures for the Award of Educational Benchmarks for Completion of Training and Development Programs

It is the intent of the Mississippi State Personnel Board to establish policies governing the award of monetary benchmarks for completion of employee training and development programs. These policies are for the purpose of providing employees opportunities to continue acquiring professional skills, knowledge, and expertise.

The Mississippi State Personnel Board Executive Director or their designee is authorized to certify requests to award Educational Benchmark increases on a case-by-case basis. Employees may receive an educational benchmark for the possession or attainment of education, licensure, certification, or registration, which exceed the level of minimum qualifications listed for the employee's assigned job class.

#### a. General Benchmark Policies

- (1) Requests for Educational Benchmark awards are made at the discretion of the agency head.
- (2) No Educational Benchmark shall be awarded for degrees, licensure, certification, or registration, which the incumbent possessed at the time of hire.
- (3) If the employee being awarded an Educational Benchmark is currently at end salary of his or her classification, or should the benchmark cause an employee's salary to exceed end salary, that portion of the benchmark exceeding end salary shall be paid as a one-time lump-sum payment.
- (4) Any new hire flexibility, recruitment flexibility, or other discretionary compensation awarded for, or in anticipation of future educational achievement, licensure, or certification shall not result in a subsequent award of an Educational Benchmark for the same achievement.
- (5) Educational Benchmarks shall not be awarded for degrees, licensure, certifications, or registrations, which are required by law for performance of job duties.

#### b. Degrees

Increases in increments of up to five percent (5%) **may** be awarded to employees obtaining one each of the following degrees: Associate's, Bachelor's (in no case shall the cumulative award for the achievement of an



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Associate's Degree and a Bachelor's Degree exceed five percent (5%), Master's, Specialist and Doctoral.

c. Licensure/Certification/Registration

Increases of up to five percent (5%) **may** be awarded to employees acquiring licensure, certification, or registration **directly related** to their jobs.

Generally, employees in information technology classifications may only receive increases related to the completion of educational degrees, the Basic Supervisory Course, the Certificate in Supervisory Management, the Certified Public Manager program, and the Stennis Executive Development Institute. However, an employee may be awarded an increase for obtaining a certification developed and administered by their employing agency, which is directly related to the mission of the agency.

d. Educational Benchmarks for Executive Directors

In accordance with Section 25-3-34 of the *Mississippi Code Annotated*, in addition to the salary established by the Mississippi State Personnel Board for agency heads previously included in Section 25-3-33 (said section now repealed), agency heads may receive the award of educational benchmarks as defined in Mississippi State Personnel Board rules for the possession or attainment of any of the following:

- (1) The Certified Public Manager designation;
- (2) A job-related PhD (Doctor of Philosophy) degree which is not required as a minimum qualification of the position;
- (3) A job related certification, licensure, or registration requiring the passage of an examination, which is not required as a minimum qualification of the position.

No such official may receive more than a total of three (3) eligible benchmarks, only one of which may be for a job related certification, licensure or registration.

The end salary may be extended to accommodate educational benchmark increases as provided for in *Mississippi Code Annotated* § 25-3-34.



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### 10. Special Compensation Plans

Authorization to implement special compensation plans during Fiscal Year 2021 shall be limited. Only special compensation plans reviewed **prior to the start of Fiscal Year 2021** and approved by the Mississippi State Personnel Board for implementation or continuation during the fiscal year shall be certified.

Further, to qualify for a teacher pay increase, agencies must complete Form SPC- 0705 (Attached), which certifies that recipients of increases are performing duties directly related to the education of patients/clients.

### 11. Additional Compensation

Certification of additional compensation shall be limited to those forms of additional compensation previously approved by the Mississippi State Personnel Board, with the exception of call-back/overtime pay and any other form of compensation that may be subject to the Fair Labor Standards Act during Fiscal Year 2021. The Mississippi State Personnel Board shall consider other requests for additional compensation where the requests are justified by demonstrating that delayed implementation would seriously impair critical agency operations. The Mississippi State Personnel Board shall not consider new requests to undertake additional compensation not currently authorized except as a bona fide staffing need or as a part of the Fiscal Year 2021 Budget Request.

### 12. Salary Increases Which Exceed the Agency Head

In accordance with Section 25-3-39 of the *Mississippi Code Annotated*:

(1) (a) Except as otherwise provided in this section, no public officer, public employee, administrator, or executive head of any arm or agency of the state, in the executive branch of government, shall be paid a salary or compensation, directly or indirectly, greater than one hundred fifty percent (150%) of the maximum salary fixed in Section 25-3-31 for the Governor, nor shall the salary of any public officer, public employee, administrator, or executive head of any arm or agency of the state, in the executive branch of government, be supplemented with any funds from any source, including federal or private funds. Such salaries shall be completely paid by the state. All academic officials, members of the teaching staffs and employees of the state institutions of higher learning, the Mississippi Community College Board, and community and junior colleges, and licensed physicians who are public employees, shall be exempt from this subsection. All professional employees who hold a bachelor's degree



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or more advanced degree from an accredited four-year college or university or a certificate or license issued by a state licensing board, commission or agency and who are employed by the Department of Mental Health shall be exempt from this subsection if the State Personnel Board approves the exemption. The Commissioner of Child Protection Services is exempt from this subsection. From and after July 1, 2018, the Executive Director of the Public Employees' Retirement System and the Chief Investment Officer of the Public Employees' Retirement System shall be exempt from this subsection.

(b) The Governor shall fix the annual salary of the Executive Director of the Mississippi Development Authority, the annual salary of the Commissioner of Child Protection Services, and the annual salary of the Chief of Staff of the Governor's Office. The salary of the Governor's Chief of Staff shall not be greater than one hundred fifty percent (150%) of the salary of the Governor and shall be completely paid by the state without supplementation from another source. The salary of the Executive Director of the Mississippi Development Authority may be greater than one hundred fifty percent (150%) of the salary of the Governor and may be supplemented with funds from any source, including federal or private funds; however, any state funds used to pay the salary of the Executive Director of the Mississippi Development Authority shall not exceed one hundred fifty percent (150%) of the salary of the Governor. If the executive director's salary is supplemented with private funds, the Mississippi Development Authority shall publish on its website the amount of the supplement and the name of the donor of the private funds.

(2) No public officer, employee or administrator shall be paid a salary or compensation, directly or indirectly, in excess of the salary authorized to be paid the executive head of the state agency or department in which he/she is employed. The State Personnel Board, based upon its findings of fact, may exempt physicians and actuaries from this subsection when the acquisition of such professional services is precluded based on the prevailing wage in the relevant labor market.

(3) The executive head of any state agency or department appointed by the Governor, in such executive head's discretion, may waive all or any portion of the salary or compensation lawfully established for the position.





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- a. Compensation, for purposes of this section, is defined as the employee's base salary and any additional or special compensation, less paid fringe, authorized by state or federal law or as otherwise provided in Mississippi State Personnel Board policy. Further, agencies are required to ensure that all employees subject to the overtime provisions of the Fair Labor Standards Act of 1938, as amended, are not scheduled to work hours that could cause the employee's total annual compensation to exceed that of the governor or the agency director.
- b. In reference to the language contained in Section 25-3-39 (1)(a) above, the Mississippi State Personnel Board shall review requests for salary exemption from the Department of Mental Health for employees who hold a bachelor's degree or more advanced degree from an accredited four-year college or university or a certificate or license issued by a state licensing board, commission or agency on a case-by-case basis.

In reference to the language contained in Section 25-3-39 (2) above, the Mississippi State Personnel Board has determined that the salaries of physicians and actuaries are exempt from Section 25-3-39 of the *Mississippi Code Annotated*. The implementation of any statutory exemption must be based upon a finding of fact by the Mississippi State Personnel Board.

### 13. Reappointments for Employees Returning From an Authorized Leave of Absence without Pay

The authorized salary for an individual returning from an authorized leave of absence to the same job class from which the individual was separated, and within twelve (12) months of separation, is no more than the current salary at the time of the separation, except as may be adjusted by any salary increase authorized by the Legislature and/or through realignment.

### 14. Reemployment for Employees Returning to State Service after Separation in Good Standing

- a. The authorized salary for an individual returning to state service employment within the same job class from which the individual was separated is no more than the current salary at the time of the separation, except as may be adjusted by any salary increase authorized by the Legislature and/or through realignment.
- b. The authorized salary for an individual returning to state service employment but to another job classification is determined under



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provisions for "Original Appointments," Section D.5., without regard to the initial reasons for separation.

### **E. Performance Review Assessment (PRA) Requirements**

A current PRA rating shall be on file and be provided with, or submitted prior to, requests for processing personnel actions.

If you have any questions regarding the Variable Compensation Plan, please contact the Office of Human Capital Core Processes at (601) 359-1406.



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Form X16-0700

**ACKNOWLEDGEMENT OF AGENCY HEAD FLEXIBILITY INCREASE**

I acknowledge by my signature that I have received the Agency Head Flexibility increase below indicated and have reviewed and understand the following guidelines:

- a. I understand that I am classified as non-state service (Exclude Code 16), and therefore, do not have property rights to employment in state government;
- b. I understand that Mississippi State Personnel Board policies and procedures change annually (or more frequently), that such changes or revisions are forwarded to agency heads for dissemination to all employees, and that I am responsible for keeping informed of such changes or revisions;
- c. I understand that the salary determination procedures, and any other policy and procedure provisions, may change without prior notice;
- d. I understand that transfer, reallocation, demotion, agency reorganization or other action may result in the change of my Exclude Code 16 status, and the subsequent loss of my Agency Head Flexibility money; and
- e. I understand that if I leave or am removed from the non-state service status (Exclude Code 16), my salary will be calculated by determining what my salary would have been had I not received an Agency Head Flexibility increase.

Agency Head Flexibility Increase Recipient	Date	Increase Amount
		\$
Agency Head	Date	New Salary
		\$



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Form SPC-0705

**CERTIFICATION OF ACADEMIC TEACHER DUTIES**

I acknowledge by my signature that I am acting in the capacity of an Academic Teacher in my respective position, and I have reviewed and understand the following guidelines for receipt of an increase as outlined in *Mississippi Code Annotated* § 37-19-7.

- a. I understand that I am classified in an academic teacher classification, and thus possess a Class A, AA, AAA, or AAAA teaching certificate;
- b. I certify that I am directly responsible for the instruction of students in various academic courses offered in an institutional setting;
- c. I understand that the salary determination procedures, and any other policy and procedure provisions, may change without prior notice; and
- d. I understand that transfer, reallocation, demotion, agency reorganization or other action may result in the change of my academic teacher status, and the subsequent cessation of teacher pay increases.

Minimum Programs Recipient/Classification		Increase Amount
		\$
Agency Head	Date	