**VIRGINIA DEPARTMENT OF HEALTH**

**OFFICE OF HUMAN RESOURCES**

## POLICIES AND PROCEDURES MANUAL

# Subject: Restricted Positions Keyword: Employment

**1. Purpose:** This document provides policy and procedures for the administration of *restricted* positions funded from non-general fund sources.

**2. Definitions:**

The Department of Human Resource Management (DHRM) (Policies #1.30, “Layoff” and #2.20, “Types of Employment”) defines a ***Restricted Position*** as a classified position that is funded 10% or more from non-continuous or non-recurring funding sources, such as grants, donations, contracts, capital outlay projects, or higher education auxiliary enterprise revenues. These positions are included in the Full Time Equivalent (FTE) count when determining if the agency is within its Maximum Employment Level (MEL).

**3. Policy:**

For the purposes of the Virginia Department of Health (VDH) the DHRM definition of restricted position is construed narrowly. That is, restricted positions are typically those

* With a specific one to two year sunset of non-recurring non-general funds, such as project grants, for which there is little likelihood that funding will be continued from another source; ***and***
* With 90% to 100% funding from a non-general source such that the termination of non-general fund monies will result in the position’s abolishment.

Positions are established as restricted in order to ensure that they can be abolished when funding expires without the requirement to invoke the state layoff policy for position incumbents.

Within VDH many positions are fully or partially funded from non-general fund sources, but they are non-restricted rather than restricted positions, because most VDH positions funded from sources other than general funds are stable, long term, recurring arrangements.

**3. Responsibilities:**

1. **District and Office Directors** – These individuals have been delegated the authority to establish positions within their organizations, including positions which they determine to be restricted in accordance with this policy. They are responsible for ensuring that the procedures outlined below in Section 5 are carried out and that restricted positions are abolished on their scheduled expiration dates, unless additional funding has been received to continue the position.
2. **Deputy Commissioners** – They provide oversight of the administration and management of restricted positions and are responsible for reviewing proposed conversions of positions from restricted to non-restricted and vice versa.
3. **Director, Office of Human Resources (OHR)** – He/she is responsible for interpreting the application of state and VDH policies with respect to restricted positions to managers and affected employees.
4. **Status of Employees in Restricted Positions:**

Employees in restricted positions

1. Are subject to all human resource laws, regulations, policies and rules for employees of the Commonwealth of Virginia and to the human resource policies established by VDH;
2. Are eligible for all state benefits;
3. Are laid off after affected wage positions, but before non-restricted positions;
4. Have no layoff placement rights under state layoff policy unless the position they held immediately prior to the restricted position was a full-time non-restricted position, with no break in service between the non-restricted position and the restricted position; and
5. Receive no severance benefits if in a grant funded position for which the grantor has made no provision to provide funding for severance benefits.
6. **Procedures:**
7. When establishing a position, districts and offices determine if the position is restricted or non-restricted as defined in this policy. If restricted, they will so indicate on the HR-9, Position Classification Request and will enter the expiration date in the space provided. If there is a doubt whether the funding circumstances warrant identification of the position as restricted, districts and offices may consult with OHR to help make the determination.
8. When initiating recruitment for a restricted position the district or office will identify it as such in all advertising and include the scheduled expiration date.
9. When an applicant has been selected for a restricted position, the letter of commitment to the applicant will identify the position as restricted and provide the scheduled expiration date. This notification will include the source of funding and an explanation that the availability of funding will be reviewed prior to the date of termination of funding. The letter will also include an explanation of the status of employees in restricted positions as defined in Section 4, above. The employee must sign the letter acknowledging acceptance of the terms, prior to the date of employment.
10. To change the status of a filled position from restricted to non-restricted or vice versa, the district or office will submit the proposed action to the appropriate Deputy Commissioner for review and approval. If the action is approved, the district or office completes an HR-9, Position Classification Request, indicating the appropriate funding codes and related information and submits the form to OHR at least one pay period before the status change. The employee must be notified of the change, in writing, including an explanation of the effect on his/her status (see Section 4, above).
	1. If the position changes from non-restricted to restricted the employee will now have layoff placement rights, because the employee is credited with immediately prior continuous state service in a non-restricted position, without a break in service.
	2. If the position changes from restricted to non-restricted the employee will now be eligible for layoff placement rights in the non-restricted position.
11. OHR will automatically extend the expiration dates of restricted positions for another 12 months, unless the district or office submits an HR-9, Position Classification Request, to terminate the position. HR-9s to abolish vacant restricted positions must be received no later that 2 weeks prior to the expiration date. If the restricted position is filled, the HR-9 request to terminate should be submitted to OHR at least 60 days in advance of the expiration date. If the position is vacant, the HR-9 should be submitted at least one pay period before the expiration date.
12. **Records Retention:**  Original copies of forms, letters to employees and other documents relating to the restricted nature of the position will be retained at the District or Office level.
13. **Rescissions :** VDH Policy #2.20 dated August 15, 2001 is rescinded.
14. **Effective Date:** This issuance is effective on January 26, 2009.

**APPROVED:**  **Original Signed By \_\_1/26/09\_\_\_**

###  Rebecca E. Bynum Date

 Director, Office of Human Resources