

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Administration and Financial Management
(Amendment)

902 KAR 8:060. Salary adjustments for local health departments.

RELATES TO: KRS 211.170(1), (2), 211.1751, 211.1752, 211.1755, 212.170, 212.870

STATUTORY AUTHORITY: KRS 194A.050(1), 211.1755(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet. KRS 211.1755(2) requires the cabinet to promulgate administrative regulations establishing the policies and procedures of the local health department personnel program. This administrative regulation establishes the policies and procedures regarding salary adjustments for local health departments.

Section 1. Salary Upon Appointment.

(1) The entrance salary of an employee entering employment shall be at the minimum of the range established for the class to which the employee is appointed, unless otherwise approved by the department, based on the criteria established in subsections (2) and (3) of this section.

(2)

(a) Prior to the start date of a new employee, and upon approval by the department, a new minimum entrance salary may be established by an agency if it is determined that it is not possible to recruit qualified employees for a class of positions at the established entrance salary.

(b) If an appointment is made at the newly established minimum entrance salary, employees of the agency in the same class paid at a lower salary shall have their salaries adjusted to the newly established minimum entrance salary.

(c)

1. If a new minimum entrance salary is established by an agency for a specified class, in addition to the adjustment required by subsection (3) of this section, based on documented recruitment needs, or a new entrance salary is established by a compensation plan change, the department may approve a salary adjustment for employees in the same class.

2. The adjustment shall be a fixed amount provided to each employee in the classification and shall not exceed the amount of increase applied to the newly established minimum.

3. In fixing salaries for this adjustment, an appointing authority shall afford equitable treatment to all employees affected by the adjustment.

(3)

(a) An appointment of an applicant who meets the minimum requirements for a position may be above minimum salary within the salary range applicable to the class, if:

1. The newly appointed employee has previous, relevant experience above the minimum requirements of the job;

2. It is necessary to attract qualified applicants; and

3. The newly appointed employee's hire rate does not exceed the salary of a present employee in the same classification with the comparable years of relevant experience, education, and training.

(b) If the individual possesses qualifications in training and experience in addition to the minimum requirements for the class, the newly appointed employee may receive a two (2) percent salary adjustment, not to exceed the midpoint, for each year of appropriate experience and education or training in excess of the minimum requirements for the respective classification.

(c) An employee possessing the same qualifications, in the same class of positions, in the same agency, and who is paid below the entrance salary level as adjusted for the newly appointed employee, shall have his or her salary adjusted to the approved entrance salary level.

Section 2. Initial Probationary Salary Adjustment.

(1) The appointing authority shall grant an employee a five (5) percent increase in salary upon successful completion of the required initial employment probationary period as specified in 902 KAR 8:080 Section 9(2). The salary adjustment shall take effect the first pay period following completion of the probationary period.

(2) Except as provided for in 902 KAR 8:080, Section 3(2)(a), an employee shall not be given an original probationary increment more than once for successful completion of the probationary period in the same classification.

Section 3. In-Range Salary Adjustment.

(1) An appointing authority may request a salary adjustment not to exceed five (5) percent if an employee is assigned permanent job duties and responsibilities ~~that~~which are more complex and difficult than current job duties and grade level, but are less than those indicated through a reclassification.

(2) Only one (1) in-range salary adjustment shall be allowed for an employee per classification.

(3) The appointing authority may request to remove the in-range salary adjustment if the in-range duties are removed. The salary shall revert to the previous amount prior to the in-range adjustment.

Section 4. Reclassification.

(1) A position shall be reclassified if the duties and responsibilities of a position have materially changed.

(2) An agency~~[-, based on an evaluation of a position,]~~ may request a reclassification of a regular status employee to a different position:

(a) Within the same classification series that has more complex nonsupervisory job duties and responsibilities and has a higher grade level; or

(b) ~~That has supervisory responsibilities and a higher grade level; or~~

~~[(c)]~~ In a different classification series that has the same or higher grade level.

(3) A regular status employee to be reclassified shall:

(a) Meet the minimum requirements of the new classification; and

(b) Have not previously performed the primary duties of the new classification.

(4) An employee that is reclassified with or without probation to a position having a higher pay grade shall receive a salary increase that is the higher of:

(a) Five (5) percent of the employee's current salary;

(b) Three (3) percent for each grade increase to the new position not to exceed ten (10) percent; or

(c) The minimum salary of the grade assigned to the new position.

(5) A reclassified employee shall ~~[-and]~~

~~[(c)]~~ serve a probationary period of thirteen (13) pay periods if the reclassification is to a supervisory position or a different classification series within the same grade. If the employee has performed satisfactorily, as determined by the employee's supervisor, the

employee shall receive a three (3) percent salary increase at the end of the probationary period.

~~[(4)] [An employee that is reclassified with or without probation to a position having a higher pay grade shall receive a salary increase that is the higher of:]~~

~~[(a)] [Five (5) percent of the employee's current salary;]~~

~~[(b)] [Three (3) percent for each grade increase to the new position not to exceed ten (10) percent; or]~~

~~[(c)] [The minimum salary of the grade assigned to new position.]~~

Section 5. Promotion of an Employee to a Vacant Position.

(1) An employee may be promoted upon the request of an appointing authority if the employee meets the minimum requirements of the vacant position having a higher salary determined by the department to have more extensive and complex job duties and responsibilities.

(2) An employee who is advanced to a higher pay grade through a promotion shall receive a salary increase that is the higher of:

(a) Five (5) percent;

(b) Three (3) percent for each grade increase to the new position not to exceed ten (10) percent; or

(c) The minimum salary of the new position.

(3)

(a) The employee shall serve a promotional probationary period of thirteen (13) pay periods and, except as provided by paragraph (b) of this subsection, shall receive a three (3) percent salary increase following satisfactory completion of the probationary period, as documented by the performance evaluation;

(b) If the employee was promoted while serving an initial probation, the employee shall receive a five (5) percent increment in salary instead of a three (3) percent increase.

Section 6. Demotion. If an employee is demoted, the appointing authority shall determine the salary in one (1) of the following ways:

(1) If an employee requests a voluntary demotion:

(a)

1. The employee's salary shall be reduced by five (5) percent for one grade; or

2. For multiple grades, three (3) percent for each grade decrease not to exceed ten (10) percent; and

(b) The employee's salary shall be reduced by an additional three (3) percent if the voluntary demotion is to a position that no longer requires supervisory responsibilities;

(2) If the demotion is due to reorganization by the agency, the employee may retain the salary received prior to demotion. If the employee's salary is not reduced upon demotion, and funding is sufficient, the appointing authority shall explain the reason in writing and place the explanation in the employee's personnel files; or

(3) The salary of an employee who is demoted because of a documented disciplinary problem or inability to perform a duty or responsibility required of the position shall be reduced by ten (10) percent of their current salary or to the minimum of the new grade.

(4) The salary of an employee demoted as a result of documented unsatisfactory performance during the promotional probationary period shall be reduced to the level prior to promotion.

Section 7. Salary Upon Reinstatement of a Former Employee.

(1) A former employee may be reinstated to a position for which the employee was previously employed.

(2) The salary of an employee that is reinstated shall be at the higher of:

- (a) The same pay rate the employee had been paid at the termination of service, if the time period between separation and reinstatement does not exceed three (3) years;
- (b) The current established minimum entrance salary above the former salary; or
- (c) Compensation plan changes.

Section 8. Salary Upon Re-employment.

- (1) A former employee may be re-employed to a position for which the employee was previously employed up to one (1) year after separation.
- (2) The salary of an employee that is re-employed shall be:
 - (a) At the same pay rate the employee had been paid at the termination of service, if the period between separation and re-employment does not exceed one (1) year; or
 - (b) In accordance with Section 6(1) of this administrative regulation if re-employed to a lower classification.

Section 9. Lump Sum Merit Payment.

- (1) The appointing authority, with the approval of the department, may award a regular, full-time, part-time 100 hour, or part-time employee a merit lump sum payment.
- (2) The appointing authority may grant a lump sum merit payment to an employee meeting the eligibility criteria of this section in an amount not to exceed eight (8) percent of the employee's current salary or established minimum of the employee's classification grade during the annual evaluation period of twenty-six (26) pay periods.
- (3) A lump sum merit payment may be granted by the appointing authority with the approval of the department, to an employee meeting the following eligibility criteria:
 - (a) The employee has completed the initial probationary period required on appointment; and
 - (b)
 - 1. The employee's job performance is consistently above what is normally expected or required by the job duties and responsibilities; or
 - 2. The employee has successfully completed a special project of significant importance to warrant special attention.
- (4) The appointing authority shall prepare and submit written documentation to the department that shall substantiate that the employee satisfies the eligibility criteria in this section for the lump sum merit payment to be effective.
- (5) The appointing authority shall inform the Board of Health the number of lump sum merit payments granted during the fiscal year that exceed \$2,000 per payment unless the payment is based on the 902 KAR 8:096 annual evaluation.
- (6) An agency may grant a one (1) time lump sum merit payment across the board during the fiscal year to all regular status employees in recognition of the agency exceeding expectations.
 - (a) The flat amount per employee shall not exceed \$1,000; and
 - (b) The appointing authority shall receive prior approval from the Board of Health and the department.

Section 10. Detail to Special Duty.

- (1) An employee may be detailed to special duty on a temporary basis, not to exceed twenty-six (26) pay periods, to:
 - (a) Occupy a position and assume the job duties and responsibilities of an employee on an approved leave of absence or an employee that has separated from the agency; or
 - (b) To undertake a special project assigned by the appointing authority in addition to the employee's regular duties and responsibilities.
- (2) An employee who is approved for detail to special duty shall receive a salary increase of five (5) percent during the detail to special duty.

(3) After completion of the special assignment, the employee shall be transferred to the classification or resume normal duties with the employee's salary reduced by five (5) percent.

(4) An employee shall be entitled to salary increases provided by the agency during the special assignment.

Section 11. Educational Achievement and Skill Enhancement Pay.

(1) The job-related skill enhancement pay shall be granted to recognize and reward an employee who takes the initiative through his or her own efforts to increase job worth and significantly enhance his or her value to the agency by achieving a higher level of performance through a prescribed course of study in the employee's job field.

(2) An agency may elect not to participate in the educational achievement program if sufficient funds are not available.

(3) An employee shall not receive more than one (1) educational achievement salary increase.

(4) An appointing authority may grant a five (5) percent increase to an employee's salary for obtaining a high school diploma, high school equivalency certificate, or a passing score on the GED test:

(a) Outside of work hours; and

(b) While in the employment of the agency.

(5) An appointing authority may grant a five (5) percent increase to an employee's salary for postsecondary education or training if:

(a) The department has determined the employee has completed 260 hours of job-related classroom instruction;

(b) The employee began the course work after becoming an employee of the agency and completed the course work after establishing an increment date;

(c) The employee has completed the course work within five (5) years of the date on which it began;

(d) The course work has not previously been applied toward an educational achievement award;

(e) The agency has not paid for the course work or costs associated with it; and

(f) The employee was not on educational or extended sick leave when the courses were taken.

(6) An appointing authority may grant, with the approval of the department, an employee a lump sum merit payment not to exceed three (3) percent of the employee's grade minimum to an employee that presents a certificate, license, or other evidence of mastering a body of knowledge obtained through a prescribed course of study that is directly related to the position held and based on this evidence is identified as an approved program by the department.

(7) The salary adjustment for educational achievement shall not include on the job training provided by or required by the agency as part of the assigned job duties and responsibilities.

Section 12. Other Salary Adjustments.

(1)

(a) An agency may submit a request to the department substantiating the need for a specific salary adjustment for regular status employee in classified service to address:

1. Compensation issues of the agency that negated the ability of the agency to commit available financial resources to salary adjustments based on the most recent compensation plan changes;

2. Special working conditions;

3. After hours adjustment if working hours cannot be adjusted;

4. Internal or external equity issues among individual employees or groups of employees; or
 5. Other specific circumstances.
- (b) The request shall address:
1. The nature of the salary issue;
 2. The consequences of the salary issue;
 3. Recommendation of an equitable resolution; and
 4. Other pertinent information substantiating the need for the salary adjustment.
- (c) The department may undertake a review of the request to determine the validity of the request, the impact on the submitting agency, and the impact on other agencies.
- (2)
- (a) An agency may grant a one (1) time salary adjustment for all employees during the fiscal year to:
1. Respond to retention and recruitment needs and issues of the agency based on the inability of the agency to attract and maintain a qualified workforce in order to provide services; or
 2. Place the agency in a more favorable competitive market and equity position based on an assessment of comparable agencies.
- (b) The salary adjustment shall be a prescribed amount given to an employee determined by:
1. Applying an amount not to exceed five (5) percent to the employee's grade minimum;
 2. Applying an amount not to exceed five (5) percent to the employee's grade midpoint; or
 3. Specifying a fixed hourly amount that would be provided to an employee.

Section 13. Discretionary Salary Increases.

- (1) The appointing authority may grant, with the approval of the department, a salary increase not to exceed five (5) percent for a regular status employee or employees who have demonstrated, based on the current performance evaluation, excellent performance and achievement. This increase shall be limited to one (1) increase annually.
- (2) The Board of Health may grant~~[, with the approval of the department,]~~ a salary increase ~~[not to exceed five (5) percent]~~ for a regular status public health director or administrator who has demonstrated, based on the current performance evaluation, excellent performance and achievement. The increase shall be limited to one (1) increase annually.

STEVEN J. STACK, MD, MBA, Commissioner
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: April 28, 2022

FILED WITH LRC: May 9, 2022 at 1:30 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on July 25, 2022, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by July 18, 2022, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do

not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until July 31, 2022. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Julie Brooks or Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes the policies and procedures regarding salary adjustments for local health departments.

(b) The necessity of this administrative regulation:

KRS 194A.050 authorizes the secretary of the cabinet to promulgate administrative regulations necessary to operate the programs and fulfill the responsibilities of the cabinet. KRS 211.1755(3)(a)3 and 9 authorize the cabinet to promulgate through administrative regulations a salary, wage, and price policy and administration and establish a method of salary increments.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

This administrative regulation outlines the employee actions that can result in a salary adjustment and establishes the rate for salary increments.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation ensures all local health department personnel are aware of the activities that can result in a salary adjustment and understand the rate of that adjustment.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

The amendment to this administrative regulation clarifies the reclassification process for local health department employees, removes Department for Public Health approval for a local Board of Health to give a local health department director a discretionary pay increase, and removes the five (5) percent limit on the discretionary pay increase for local health department directors.

(b) The necessity of the amendment to this administrative regulation:

The amendment to this administrative regulation is necessary to clarify the reclassification process to ensure a better understanding for employees. A local Board of Health is able to fix the salary of a local health department director, and removing the approval of the department for this will improve that process.

(c) How the amendment conforms to the content of the authorizing statutes:

KRS 211.1755 authorizes the cabinet to administer a personnel program for local health departments based on the principles of merit and to promulgate administrative regulations to establish policies and procedures for the personnel program, which shall include a classification plan and compensation plan.

(d) How the amendment will assist in the effective administration of the statutes:

The amendment to this administrative regulation will ensure local health department staff have a clear understanding of the reclassification process and removes the administrative burden of the department to approve a local Board of Health discretionary raise for a local health department director.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

This administrative regulation will affect fifty-eight (58) local health jurisdictions and 2,300 employees. The Lexington-Fayette County, the Louisville Metro Public Health and Wellness, and Northern Kentucky District Health Departments are exempted from this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Local health department personnel will need to be familiar with the provisions for salary adjustment and understand the limits placed on these adjustments.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

Costs to the local health departments will be based on the salary increases offered to employees under the provisions of this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

By complying with this administrative regulation, local health department staff will benefit from consistent application of the rules for salary adjustments.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

This is an ongoing program, there are no initial costs to the cabinet to implement this administrative regulation.

(b) On a continuing basis:

There are no anticipated costs to the cabinet to implement this amended administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

The budget for a local health department is a mix of state and local funds. The local health department personnel branch within the Division of Administration and Finance is funded with state general fund dollars.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

An increase in fees or funding is not necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

. There are no fees associated with this administrative regulation.

(9) TIERING: Is tiering applied?

Tiering is not applied as all local health department personnel are eligible for salary adjustments.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

Local health departments, district health departments, Local Health Personnel Branch within the Division of Administration and Financial Management.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 194A.050 and 211.1755.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

This administrative regulation does not generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

This administrative regulation does not generate revenue.

(c) How much will it cost to administer this program for the first year?

This is an ongoing program, there are no additional cost to administer the program.

(d) How much will it cost to administer this program for subsequent years?

There will be no additional cost to administer the program in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

This is an ongoing program. This administrative regulation will not impact costs for the regulated entities in the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

This administrative regulation will not impact costs for the regulated entities in subsequent years.

(c) How much will it cost the regulated entities for the first year?

This is an ongoing program. This administrative regulation will not impact costs for the regulated entities in the first year.

(d) How much will it cost the regulated entities for subsequent years?

This administrative regulation will not impact costs for the regulated entities in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This administrative regulation does not have a major economic impact.