

PERSONNEL CABINET
(Amendment)

101 KAR 3:045. Compensation plan and pay incentives for unclassified service.

RELATES TO: KRS 18A.110, 18A.155, 18A.202, 199.555

STATUTORY AUTHORITY: KRS 18A.030(2), 18A.110(2), 18A.155(1)(b), (e), 18A.202(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.155 requires the Secretary of Personnel to promulgate administrative regulations for persons in positions enumerated in KRS 18A.115(1)(g), (h), (i), (j), (k), (p), (t), and (u). KRS 18A.110 requires the secretary to promulgate comprehensive administrative regulations for the unclassified service. KRS 18A.202 authorizes the secretary to implement work-related incentive programs for state employees. This administrative regulation establishes the compensation plan and pay incentives for employees in unclassified service.

Section 1. New Appointments. An appointing authority shall appoint a new employee at a salary not to exceed the midpoint of the pay grade.

Section 2. Reentrance to State Service.

(1) Returning retirees. An employee who was formerly employed under KRS Chapter 18A and who is appointed to a position covered by the provisions of KRS Chapter 18A, while receiving retirement payments through the Kentucky Public Pensions Authority or Kentucky Teachers Retirement System, shall be appointed in accordance with the provisions for new appointments in this administrative regulation.

(2) Other reentering employees. An appointing authority shall set the salary of a former classified or unclassified employee, other than a returning retiree:

- (a) In accordance with the standards used for making new appointments in this administrative regulation; or
- (b) Up to a salary formerly paid in the classified or unclassified service.

Section 3. Salary Adjustments.

(1) Promotion.

(a)

- 1. An employee who is promoted shall receive a five (5) percent increase or an increase to the minimum of the new grade, whichever is greater; or
- 2. An appointing authority may grant a salary increase of five (5) percent per grade upon promotion.

(b) If sufficient funds are available, an appointing authority may adjust the employee's salary up to the midpoint of the pay grade as long as the increase is greater than the increase specified in subparagraph 1. of subsection (1)(a) of this section.

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

- (a) The employee's salary shall be reduced to a rate that is not below the minimum for the job classification to which the demotion is made;
- (b) The employee shall retain the salary received prior to the demotion. If the employee's salary is not reduced upon demotion, the appointing authority shall explain the reason in writing and place the explanation in the employee's personnel files; or
- (c) In the event of a salary schedule adjustment of an entry level wage of a pay grade, if an employee demoted to a lower pay grade, retained his or her salary, and was subsequently promoted and on promotional probation on the effective date of the new salary schedule, if the employee's salary is less than five (5) percent above the new entry level salary of the pay grade assigned to that employee on the effective date, the

Personnel Cabinet shall adjust that employee's salary to five (5) percent above the new entry level wage.

(3) Reclassification.

(a) An appointing authority shall adjust the salary of an employee who is advanced to a higher pay grade through reclassification in one (1) of the following ways:

1. The greater of five (5) percent or the new grade minimum;
2. The greater of five (5) percent for each grade or the new grade minimum; or
3. If sufficient funds are available, up to the midpoint of the pay grade as long as the increase is greater than the increase specified in subparagraph 1. of this paragraph.

(b) An employee who is placed in a lower pay grade through reclassification shall receive the same salary received prior to reclassification.

(c) If sufficient funds are available, an appointing authority may adjust up to the midpoint of the pay grade the salary of an employee who is placed in the same pay grade through reclassification.

(d) An employee shall not be reclassified from a job classification that does not require the supervision of employees to a job classification that requires the supervision of employees as mandated within the job class specification.

(4) Reallocation.

(a) An employee who is advanced to a higher pay grade through reallocation shall receive a five (5) percent increase or an increase to the new grade minimum, whichever is greater. An appointing authority may grant a five (5) percent increase per grade upon reallocation to a higher grade.

(b) An employee who is placed in a lower pay grade through reallocation shall receive the same salary received prior to reallocation.

(5) Detail to special duty.

(a) An employee who is detailed to special duty in a higher grade shall receive a five (5) percent increase or an increase to the minimum of the grade, whichever is greater, for the duration of the period of the detail. An appointing authority may grant a salary increase of five (5) percent per grade for the duration of the detail.

(b) If sufficient funds are available, an appointing authority may adjust the salary of an employee who is placed in the same pay grade or higher pay grade through detail to special duty, up to the midpoint of the pay grade, as long as the increase is greater than the increase specified in paragraph (a) of this subsection.

(c) An employee who is detailed to special duty to the same or lower grade shall continue to receive the same salary except as provided under paragraph (b) of this subsection.

(6) Reversion.

(a) The salary of an employee who is reverted following detail to special duty in a higher pay grade shall be adjusted to:

1. The salary received prior to the detail; and
2. All salary advancements and adjustments which would have been awarded if the detail had not occurred.

(b) The salary of an employee who is reverted from a position in the unclassified service to a position in the classified service shall be adjusted to:

1. The salary received prior to leaving the classified service; and
2. All salary advancements and adjustments which would have been awarded if the individual had remained in the classified service.

(7) Pay grade changes.

(a) If a job classification is assigned to a higher pay grade, the appointing authority shall raise the salary of an employee below the new grade minimum to the new grade minimum. If sufficient funds are available, an appointing authority may uniformly adjust the salary of all employees in that agency in that job classification to:

1. The greater of the new grade minimum or five (5) percent per pay grade;
2. The greater of the new grade minimum or ten (10) percent per pay grade; or
3. At a percentage determined by the Personnel Cabinet.

(b) If a job classification is assigned to a lower pay grade, an employee in that job classification shall retain his current salary.

(8) Special entrance rates. If a special entrance rate is established for a job classification, an appointing authority shall adjust the salary of an employee in that job classification, who is below the special entrance rate, to the new rate. If sufficient funds are available, on the same date as the establishment of the special entrance rate, an appointing authority may also grant a salary adjustment equal to the difference between the entrance of the pay grade and the new special entrance rate to other employees in that job classification, except those employees who are on initial probation.

(9) Other salary adjustments.

(a) On the 16th of a month, an appointing authority may grant a five (5) percent salary adjustment to an employee who was eligible for, but did not receive an increase upon the completion of six (6) months service following promotion.

(b) On the 16th of a month, an appointing authority may grant a salary adjustment to an employee within an agency who was eligible for, but did not receive at least a five (5) percent per pay grade increase or ten (10) percent per pay grade increase as a result of a grade change on or after January 1, 1999. The total adjustment under this provision when combined with an increase at the time of the grade change shall equal a five (5) percent per pay grade increase or ten (10) percent per pay grade increase to the employee's salary immediately prior to the grade change. Such adjustment shall not be retroactive.

(c) If sufficient funds are available, an appointing authority may adjust the salary of one or more unclassified employees in an office or department due to internal pay equity issues within a job classification or sustained retention issues impacting the mission of the agency.

1. The appointing authority shall substantiate in writing to the secretary the need for adjustment and include the proposed adjustment for each employee.

- 2.

- a. An adjustment shall be any amount that does not cause an employee's hourly rate to exceed the midpoint of the pay grade; or

- b. An adjustment that causes an employee's hourly rate to exceed the midpoint of the pay grade shall not exceed twenty-five (25) percent of the employee's hourly pay rate.

(10) Conversion rule. The salary of an employee whose position changes from a thirty-seven and five-tenths (37.5) hour workweek to a forty (40) hour workweek, or vice versa, shall be converted to accurately reflect the employee's hourly rate of base pay. This conversion shall be applied before applying any other salary adjustment to which the employee is entitled pursuant to this section.

Section 4. Salary Advancements.

(1) Initial appointment increase. An appointing authority may grant a five (5) percent increase to an employee, except an interim employee, on the first day of the month following completion of the greater of six (6) months of service or the months of service required by 101 KAR 1:325 Section 1(2).

(2) Six (6) month promotional increase. An employee may receive a five (5) percent increase following the completion of the greater of six (6) months service after promotion or the months of service required by 101 KAR 1:325 Section 1(2).

(3) Annual increment dates shall be established as follows:

- (a) On the first day of the month following completion of the initial probation period;
or
 - (b) On the first day of the month following completion of twelve (12) months service since receiving the last annual increment for an employee, other than an interim employee, who returns from leave without pay.
- (4) Annual increment dates shall not change if an employee:
- (a) Is in a position which is assigned a new or different pay grade;
 - (b) Receives a salary adjustment as a result of his position being reallocated;
 - (c) Is promoted;
 - (d) Is transferred;
 - (e) Is demoted;
 - (f) Is detailed to special duty;
 - (g) Receives an educational achievement award;
 - (h) Returns from military leave;
 - (i) Is reclassified; or
 - (j) Receives an increase six (6) months following promotion.
- (5) Return from leave without pay. An employee, other than an interim employee, returning to duty from leave without pay shall receive an annual increment on the first of the month after receiving compensation in any twelve (12) months since the last increment was received.
- (6) Service computation. Full-time and part-time service shall be counted when computing service for purposes of determining increment eligibility. Service as an interim employee, or in the former seasonal, temporary, or emergency categories shall not be considered.
- (7) Order of calculating increments and other salary increases which occur at the same time. If an employee's increment date occurs on the same date that a salary adjustment or advancement is granted, the increment shall be applied before the adjustment or advancement is added to the employee's salary, except if the adjustment is based on a reversion, pay grade change, a salary schedule change, or establishment of a special entrance rate.

Section 5. Educational Achievement Award.

- (1) On the 16th of a month, an appointing authority may grant a five (5) percent increase to an employee's base salary based on educational achievement as specified in this section.
- (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 award in a fiscal year.
- (4) An employee shall not receive an educational achievement award and an adjustment for continuing excellence (ACE) based on the same training.
- (5) By submitting a personnel action to grant an educational achievement award, the appointing authority shall certify that all of the qualifying conditions established in subsection (5) of this section for the appropriate type of educational achievement award have been met.
 - (a) For a high school diploma, high school equivalency certificate, or a passing score on the GED test, the qualifying conditions shall be met if:
 - 1. The employee has obtained the high school diploma, equivalency certificate, or passing score on the GED test:
 - a. Outside of work hours;
 - b. While in state service; and
 - c. After establishing an increment date.

2. The employee has not previously attained a high school diploma, equivalency certificate, or passing score on the GED test; and
 3. The employee has not completed college coursework on the undergraduate or graduate level prior to obtaining the high school diploma, equivalency certificate, or a passing score on the GED test.
- (b) For postsecondary education or training, the qualifying conditions shall be met if:
1. The employee has completed 260 hours of job-related instruction, or the equivalent;
 2. The employee began the course work after becoming a state employee and completed the course work after establishing an increment date;
 3. The employee has completed the course work within five (5) years of the date on which it was begun;
 4. The course work has not previously been applied toward an educational achievement award;
 5. The agency has not paid for the course work or costs associated with it, in whole or in part; and
 6. The employee was not on educational or extended sick leave when the courses were taken.

Section 6. Salary Schedule Adjustment.

(1) If the secretary authorizes an adjustment of a salary schedule, an appointing authority shall adjust the salaries of all employees below the new schedule entry level wage for the pay grade to the new schedule entry level wage for the pay grade. If sufficient funds are available, the secretary may authorize an appointing authority to grant a salary increase for all employees equal to the difference in the old schedule entry level wage for the grade and the new schedule entry level wage for the grade.

(2) After consultation with the state budget director, if sufficient funds are available, and the Secretary of Personnel determines that an increase in the entry level wage of one (1) or more pay grades is warranted, the Personnel Cabinet shall identify each currently active employee in the pay grade(s), other than an interim employee, who is not on initial or promotional probation at the time the revised salary schedule becomes effective. For an employee whose salary is less than five (5) percent above the new entry level salary of the pay grade assigned to that employee on the effective date, the Personnel Cabinet shall adjust that employee's salary to five (5) percent above the new entry level wage.

Section 7. Maintenance and Maintenance Allowance. If an employee, or the employee and family, is provided with full or partial maintenance, consisting of one (1) or more meals per day, lodging or living quarters, and domestic or other personal services, the maintenance shall be treated as partial payment of wages. The value of those services shall be deducted from the employee's salary in accordance with a maintenance schedule developed by the appropriate appointing authority after consultation with the Secretary of the Finance and Administration Cabinet.

Section 8. Supplemental Premiums.

(1) Locality premium.

(a)

1. Upon request by an appointing authority, the secretary may authorize and establish the amount of the payment of a locality premium for an employee who is regularly, temporarily, or intermittently assigned to work in a job classification, work county, and organizational unit where the agency can demonstrate sustained recruitment and retention issues impacting the mission of the agency; or
2. The secretary may direct the payment of a locality premium for an employee who is regularly, temporarily, or intermittently assigned to work in a job classification,

work county, and organizational unit where there are demonstrated sustained recruitment and retention issues impacting the mission of the agency.

(b) Once authorized or directed, this premium shall apply to all employees in that organizational unit who are regularly or temporarily assigned to work in the job classification and work county for which the locality premium is approved.

(c) An employee shall not receive a locality premium after transfer, reclassification, reallocation, detail to special duty, promotion, or demotion to a position in a job classification, organizational unit, or work county that is ineligible for a locality premium.

(d) The secretary may rescind authorization to pay a locality premium for a job classification at any time.

(e) Locality premium pay shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(2) Shift premium.

(a) Upon request by an appointing authority, the secretary may authorize the payment of a supplemental premium for an employee who is regularly assigned to work an evening or night shift in that agency.

(b) Once authorized, this premium shall apply to all employees in that agency who are regularly assigned to work an evening or night shift in a job classification for which the shift premium is approved.

(c) An employee shall not receive a shift premium after shift reassignment, transfer, promotion, or demotion to a position that is ineligible for a shift differential premium.

(d) The secretary may rescind authorization to pay shift premium for a job classification at any time.

(e) Shift differential pay shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(3) Weekend premium.

(a) Upon request by an appointing authority, the secretary shall authorize the payment of a weekend premium for an employee in a specific job classification who is regularly assigned to work on Saturdays, Sundays, or state holidays as part of the usual work week.

(b) Once authorized, the premium shall apply to all employees in the specified job classifications in that agency who are regularly assigned to work Saturdays, Sundays, or state holidays as part of their usual work week.

(c) An employee shall not receive a weekend premium after reassignment, transfer, promotion, or demotion to a position that is ineligible for weekend premium.

(d) The secretary may rescind authorization to pay weekend premium at any time.

(e) Weekend premium pay shall not be considered part of the employee's base salary or wages and shall not be applied to any leave time usage.

(f) An agency may request, and be authorized for, both shift premium and weekend premium for the same job classifications.

(4) Multilingual hourly premium.

(a) Upon request by an appointing authority, the secretary may authorize the payment of a supplemental multilingual hourly premium for an employee who is assigned to complete work duties in a specified foreign language. An employee completing work duties in a specified foreign language shall receive a multilingual hourly premium based on the percentage of time multilingual skills are performed. An employee in a job classification that includes interpreting services as a characteristic of the job on the job class specification shall not be eligible for this premium.

(b) Language proficiency testing shall be completed prior to an employee receiving the multilingual hourly premium. Testing shall indicate a standard level of multilingual proficiency as required by the appointing authority.

(c) An appointing authority shall submit the multilingual premium request to the Personnel Cabinet in writing. The request shall contain, at a minimum:

1. An explanation of the reason or reasons for granting the multilingual premium;
2. The percentage of time the employee will use multilingual skills; and
3. Certification by the appointing authority that the employee has completed multilingual testing and received a standard level of multilingual proficiency rating. This certification shall include the name of the testing facility or organization, the format of the test taken (oral, written, or a combination of oral and written), and the level of proficiency granted in the request for the multilingual premium.

(d) Once authorized, the multilingual hourly premium shall apply to all employees in that agency who are regularly assigned to complete work in a specified foreign language once the employees are individually approved in accordance with this subsection.

(e) An employee shall not receive a multilingual hourly premium after reassignment, reclassification, transfer, promotion, reallocation, or demotion to a position which no longer requires work in a specified foreign language.

(f) An employee who ceases to perform work duties in a specified foreign language shall not be eligible to receive a multilingual hourly premium.

(g) The secretary may rescind the multilingual hourly premium authorization provided to an agency or individual employee at any time.

(h) The multilingual hourly premium shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(5) Critical position premium.

(a) Upon request by an appointing authority, the secretary may authorize the payment of a premium for a position held by an employee who has established an annual increment date and is regularly assigned to perform job duties that are deemed critical to the operation of the agency.

(b) A critical position premium may be authorized for at least one (1) full-time filled position in an office or department. The premium may be authorized for additional full-time filled positions if the total number of premiums does not exceed one (1) percent of the total number of full-time filled positions in an office or department.

(c) The premium shall not exceed twenty-five (25) percent of the employee's hourly rate.

(d) The critical position designation shall expire when the position becomes vacant.

(e) An employee shall not receive a critical position premium after transfer, reclassification, reallocation, detail to special duty, promotion, or demotion to a position in a different job classification, organizational unit, or work county, unless the appointing authority submits a new request, for approval by the secretary, to designate the position in the different job classification, organizational unit, or work county as critical prior to the personnel action at issue.

(f) The appointing authority or the secretary may rescind authorization to pay a critical position premium at any time.

(g) A critical position premium shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(6) Sign-on bonus.

(a) Upon written request by an appointing authority, the secretary may prospectively authorize a sign-on bonus for full-time or part time unclassified positions if:

1. The positions are in the same job classification, work county, and department or office where the appointing authority can substantiate sustained recruitment and retention issues impacting the mission of the agency;
2. The total amount of the sign-on bonus is uniform and does not exceed \$5,000 for the job classification; and

3. Eligibility for the sign-on bonus is limited to a newly appointed or rehired employee who:
 - a. Has not been employed in a KRS Chapter 18A classified position within ninety (90) calendar days preceding the effective date of appointment or rehire;
 - b. Has not previously received any amount of sign-on bonus pursuant to this subsection; and
 - c. Is working or on approved leave at the time payment is scheduled to be issued.
- (b) Once a sign-on bonus is authorized by the secretary, an eligible employee shall receive:
 1. Twenty-five (25) percent of the total sign-on bonus on the first day of the month after appointment or rehire;
 2. Twenty-five (25) percent of the total sign-on bonus on the first day of the month after completion of six (6) months of active service in the position into which the employee was appointed or rehired; and
 3. Fifty (50) percent of the total sign-on bonus on the first day of the month after completion of twelve (12) months of active service in the position into which the employee was appointed or rehired.
- (c) An employee shall not receive future payment of any portion of a sign-on bonus after transfer, promotion, or demotion to a position in a job classification, department or office, or work county other than the position into which the employee was appointed or rehired.
- (d) An employee who is detailed to special duty or whose position is reclassified or reallocated shall remain eligible for future payment of the original sign-on bonus amount.
- (e) The secretary may rescind authorization to pay a sign-on bonus at any time prior to the effective date of appointment or rehire.
- (f) A sign-on bonus shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

Section 9. Employee Recognition Award (ERA).

- (1) On the 16th day of a month, an appointing authority may grant an employee an ERA in the form of a lump sum payment of any whole percentage from one (1) to ten (10) percent of the employee's annual salary under the following conditions:
 - (a) The employee has not received an ERA in the preceding twenty four (24) months, nor an Adjustment for Continuing Excellence (ACE) award in the preceding twelve (12) months; and
 - (b)
 1. The appointing authority determines that the employee's acts or ideas have resulted in significant financial savings or improvements in services to the Commonwealth and its citizens;
 2. The employee has exhibited distinguished performance during participation in special projects that have had a significant beneficial impact on the department, office, or governmental operations; or
 3. The employee has demonstrated a sustained level of exceptional job performance.
- (2) An employee shall not be eligible for an ERA under this section for an act or idea that has been approved or submitted for consideration as an Employee Suggestion System Award. An employee who has received an ERA shall not be eligible to be considered for an Employee Suggestion System Award for those acts or ideas upon which the ERA is based.
- (3) The granting of an ERA shall be within the sole discretion of the appointing authority.
- (4) If an appointing authority grants an ERA, the justification for the award shall be stated in writing, and placed in the employee's personnel files.

(5) An appointing authority shall submit a written justification to the Personnel Cabinet to award an ERA. The justification shall:

- (a) Explain the reason or reasons for the granting of the award; and
- (b) Include a certification by the appointing authority that:
 - 1. Sufficient funds are available within the department or office; and
 - 2. The criteria and limitations established in this section have been met.

Section 10. Adjustment for Continuing Excellence (ACE) Award.

(1) On the 16th day of a month, an appointing authority may grant a salary adjustment of any whole percentage from one (1) to ten (10) percent of the employee's annual salary to a full-time employee's base pay as an ACE award under the following conditions:

- (a) The employee has an established annual increment date;
- (b) The employee has worked at least twenty-four (24) consecutive months in KRS Chapter 18A state service, twelve (12) consecutive months of which shall have been served in the department or office granting the award;
- (c) The employee has not received an ACE award in the preceding twenty-four (24) months or an ERA in the preceding twelve (12) months; and
- (d)
 - 1. The employee has demonstrated a sustained level of exceptional job performance;
 - 2. The employee has assumed a significant level of additional job responsibilities or duties consistent with the assigned job classification, and has performed them in an exceptional manner; or
 - 3. The employee has acquired professional or technical skills or knowledge through department or office directed or authorized attainment of a job related licensure, certification, or formal training that will substantially improve job performance.

(2) An employee shall not be eligible for an ACE award under this section if an educational achievement award has been granted for the same training.

(3) The granting of an ACE award shall be within the sole discretion of the appointing authority.

(4) An appointing authority shall submit a written justification to the Personnel Cabinet to grant an ACE award. The justification shall:

- (a) Explain the reason or reasons for the granting of the award; and
- (b) Include a certification by the appointing authority that:
 - 1. The criteria and limitations established in this section have been met; and
 - 2. Sufficient funds are available within the department's or office's current recurring base budget to support the award.

Section 11. Adoption Benefit Program. The provisions of the Adoption Benefit Program established in 101 KAR 2:120 shall apply to an employee in the unclassified service.

GERINA D. WHETHERS, Secretary, Personnel Cabinet
ANDY BESHEAR, Governor

APPROVED BY AGENCY: March 10, 2023

FILED WITH LRC: March 15, 2023 at 9:20 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 22, 2023, at 10:00 a.m. at 501 High Street, 3rd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing 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 cancelled. This hearing is open to the public. Any person who wishes to be heard 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 the proposed administrative regulation. Written comments shall be accepted until 11:59 p.m. on May 31, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Rosemary Holbrook, Assistant General Counsel, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone (502) 564-7430, fax (502) 564-0224, email RosemaryG.Holbrook@ky.gov.