

**902 KAR 8:090. Promotion, transfer, and demotion of local health department employees.**

RELATES TO: KRS 211.170(1), (2), 211.1751, 211.1755 212.170(4), 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 for the local health department personnel program. This administrative regulation describes the provisions and requirements for promotions, transfers, and demotions of local health department employees.

Section 1. Promotion.

(1) An employee may be promoted to a higher grade at any time upon the request of an appointing authority if the employee meets the minimum requirements of the position as determined by the department.

(2) The promotion of an employee shall be based upon individual performance, with due consideration for length of service and capability of the individual employee to perform the duties and responsibilities of the new position.

(3) A promoted employee shall serve a probationary period of thirteen (13) pay periods, to determine through performance evaluation, if the employee can satisfactorily perform the duties and responsibilities of the position.

(4) An employee who satisfactorily completes the required promotional probationary period of thirteen (13) pay periods, as documented by the performance evaluation, shall receive a three (3) percent increase in salary.

(5)

(a) A regular status employee may be promoted from a classified position to an unclassified position.

(b) If separated from an unclassified position following promotion, an employee shall revert to the class in which the employee previously held status.

(c) If there is no vacancy in that class, the employee may be reverted to a position for which the employee is qualified and certified by the department, or separated from employment if a position is not available.

(d) Time served in an unclassified position shall count towards years of service and seniority.

(e) The employee shall retain eligibility to earn annual, sick, and compensatory time, if applicable, and also receive agency provided benefits.

(6) If an employee is granted leave for medical reasons in excess of twenty (20) work days during the promotional probationary period, the employee's probationary period shall be extended for the same length of time as the granted leave to cover the absence.

(7) A performance evaluation shall be completed for an employee fourteen (14) calendar days prior to completing the probationary period in order to determine the employee's ability to perform the job duties successfully.

(8) An employee who has been promoted, but fails to successfully complete the probationary period, as documented by the performance evaluation conducted by the appointing authority or designated supervisory staff, shall revert to a position in the former class subject to subsection (9) of this section. Documentation for the unsuccessful completion shall be provided to the employee and the department.

(9) If approved by the appointing authority, a promoted employee may request, during the probationary period, to be reverted to a position in the former class. The employee may revert to a position in a different class if:

- (a) There is no vacancy in the former class;
  - (b) The employee is qualified; and
  - (c) The employee is determined eligible by the department.
- (10) If a regular employee in the classified service is dismissed for cause while serving a promotional probationary period, the employee shall have the right to appeal the dismissal in accordance with 902 KAR 8:110.

#### Section 2. Transfers.

- (1) The appointing authority may, at any time, transfer a regular employee from a position in one (1) organizational subdivision to a position of the same class in another organizational subdivision within an agency.
- (2) A transfer of a regular employee from a position in one (1) class to a position in another class within an agency having the same entrance salary may be made only with the approval of the appointing authority and upon determination of eligibility and certification by the department.
- (3) An employee of one (1) agency shall not transfer to another agency without prior approval of each appointing authority. If the transfer is approved:
- (a) Accumulated annual and sick leave shall be transferred;
  - (b) Accumulated compensatory leave shall be paid in lump sum by the sending agency; and
  - (c) The annual increment date shall be retained by the employee.

#### Section 3. Demotions.

- (1) An employee may be demoted for one (1) of the following reasons:
- (a) Documented unsatisfactory employee performance during the promotional probationary period;
  - (b) An employee, with the approval of the appointing authority, voluntarily requests a demotion to a position having a lower salary range and less responsibilities and duties;
  - (c) A documented disciplinary problem or the inability of an employee to perform a duty or responsibility required of the position; or
  - (d) Due to a reorganization or reassignment of job duties based on a reorganization plan submitted by an agency and approved by the department.
- (2) If a demotion is due to a reorganization of an agency, the plan shall state if a reduction in salary of an employee is to occur.
- (3) If an employee is demoted during the initial probationary period, the employee shall continue in the employee's probationary period as if the original appointment had been to the position of the lower class.
- (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.
- (19 Ky.R. 2770; 20 Ky.R. 375; 516; eff. 9-3-1993; 21 Ky.R. 589; eff. 9-21-1994; 22 Ky.R. 2359; 23 Ky.R. 1397; eff. 8-21-1996; 24 Ky.R. 2204; 25 Ky.R. 575; eff. 8-19-1998; 27 Ky.R. 2260; 2814; eff. 4-9-2001; 990; 1673; eff. 3-9-2006; 37 Ky.R. 1781; 2171; eff. 4-1-2011; 46 Ky.R. 1956; eff. 3-19-2020.)