West Virginia Division of Personnel

PAY PLAN POLICY

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I. PURPOSE: To establish a uniform policy for the use and application of the salary schedule for the classified service consistent with merit principles. When increases are discretionary, appointing authorities have no obligation to pursue and employees have no entitlement to receive them. Such increases are subject to authorization or limitation by the Governor's Office, appointing authority and/or the State Personnel Board.

II. DEFINITIONS

A. Allocation. – The assignment of a position to a class by the Director of Personnel based on the duties performed and responsibilities assigned.

B. Appeal. – A request made to the Director or Board to reconsider a decision.

C. Appointing Authority. – The executive or head of a department or agency who is authorized by statute to appoint employees in the classified or classified-exempt service. By written notification to the Director of Personnel, the appointing authority may delegate specific powers authorized by this rule to persons who satisfy the definition of employee.

D. Appointment. – The act of hiring an applicant for employment.

E. Board. – The State Personnel Board as provided for in W. VA. Code § 29-6-6.

F. Business Necessity. – The reason or cause for any of a variety of personnel actions based upon the condition of the agency, in whole or in part, or specific program component(s) which may include, but is not limited to, lack of funds or work; abolishment of positions; material changes in mission, duties or organization; loss of budgeted, allocated or available positions; reinstatement of eligible employees returning from military duty or temporary total disability; reinstatement of an employee in compliance with a legal order; and for recall of employees previously laid off.

G. Class. – One or more positions sufficiently similar in duties, training, experience, and responsibilities, as determined by specifications, that the same title, the same qualifications, and the same schedule of compensation may be equitably applied to each position.

H. Class Specification. – The official description of a class of positions for the purpose of describing the nature of work, providing examples of work performed, and identifying the

knowledge, skills, and abilities, required while stating the generally accepted minimum qualifications required for employment.

I. Classified Employee. – An employee who occupies a position allocated to a class in the classified service.

J. Classified-Exempt Service. – As established by statute, those positions which satisfy the definitions of "class" and "classify" but which are not covered under the Division of Personnel merit system standards or employment standards of the higher education systems.

K. Classified Service. – Those positions which satisfy the definitions for "class" and "classify" and which are covered under the Division of Personnel merit system standards.

L. Compensation Plan. – The official schedule of pay rates, the compensation range assigned to each class of positions and the salary regulations used in pay administration in the classified service.

M. Compensation Range. – The approved minimum and maximum salary established for a class.

N. Demotion. – A change in the status of an employee from a position in one class to a position in a lower job class as measured by compensation range, minimum qualifications, or duties, or a reduction in an employee's pay to a lower rate in the compensation range assigned to the class. There are two (2) types of demotion:

   1. Demotion with Prejudice. – A disciplinary action resulting in the reduction in pay and a change in job class to a lower job class.

   2. Demotion without Prejudice. – A reduction in pay and/or a change in job class to a lower job class due to business necessity or as a result of an employee being selected for a vacant, posted position for which he or she applied.

O. Director. – The Director of Division of Personnel, as provided in West Virginia Code § 29-6-7 and § 29-6-9, who serves as the executive head of the Division of Personnel, or his or her designee.

P. Division.—The Division of Personnel within the Department of Administration responsible for the system of personnel administration for the classified and classified-exempt service.

Q. Incumbent. – An employee occupying a position.

R. Market Rate. – A rate established by the Director to approximate the market midpoint compensation level as compared to compensation trends in other public and private organizations.

S. Pay Increment. – The percentage increase amounts established by the Board to implement pay practices including hiring rates, salary advancements, and pay on promotion, reallocation and demotion.

T. Permanent Employee. – Any classified employee who was hired from a register and who has completed the probationary period prescribed by the Board for the job class, or any classified-exempt employee who was hired to fill a position for an unlimited period of time, notwithstanding the appointing authority's right to terminate the employee for cause or at his or her will.

U. Promotion. – A change in the status of an employee from a position in one class to a vacant position in another class of higher rank as measured by compensation range and increased level of duties and/or responsibilities.

V. Reallocation. – Reassignment by the Director of a position from one class to a different class on the basis of a significant change in the kind and/or level of duties and responsibilities assigned to the position or to address a misalignment of title and duties.

W. Resignation. – Voluntary separation from employment, including job abandonment, by an employee.

X. Salary Adjustment. – A salary change resulting from a revision of the pay plan, the reassignment of a class to a different compensation range, a Board approved pay differential, a temporary classification upgrade, a general wage increase mandated by the Legislature or the Governor, or the correction of payroll errors.

Y. Salary Advancement. – A discretionary increase in compensation granted in recognition of the quality of job performance.

III. POLICY

A. APPOINTMENTS. Appointments above the minimum salary established for a classification may be made at the discretion of the appointing authority and in accordance with the following standards.

1. When making appointments above the minimum salary, the appointing authority may pay an increment of up to 5% above the minimum salary, up to the market rate, for each six (6) months of pertinent experience or equivalent pertinent training above the minimum qualifications in the class specification. This applies to all class specifications except those specifically excluded by official action of the Board. For job classes that have a range for the experience qualifications, the lower year shall be considered as the minimum qualification in determining the rate of pay.

2. When the appointing authority can substantiate severe or unusual recruitment difficulties for the job classification, the Director of Personnel may authorize an appointment above the market rate of the classification, not to exceed the maximum rate for the compensation range. The rate shall be determined according to the formula of up to 5% above the minimum salary, up to the maximum salary, for each six (6) months of pertinent experience or equivalent pertinent training above the minimum qualifications for the classification.

   a. Appointing authorities must document the severe and unusual recruitment difficulties. Requests for appointment above the market rate shall be submitted in writing to the Director. The request shall include the salary rate requested, the recruitment efforts undertaken by the appointing authority, along with any additional documentation that demonstrates the severe and unusual recruiting difficulties. Such documentation shall contain at a minimum the length of the vacancy; the number of times the position was announced, advertised, and/or posted; and the number of internal applicants and eligible applicants on the register(s) and contact results.

   b. Pertinent experience or equivalent pertinent training above the minimum qualifications means, but is not limited to: extensive experience outside of state government which is relevant to the position to which the applicant is being appointed, education above the minimum which is relevant to the position to which the applicant is being appointed, or specialized skills, education and/or experience that would be of specific value to the agency.

c. The Director shall evaluate the request and related documentation as a basis for approval or disapproval of the request.

d. The appointing authority shall be responsible for assuring that appointments above the minimum rate for the compensation range are given in a consistent manner with due consideration to the salaries and relative qualifications of incumbent employees in the same classification to ensure internal equity. An appointing authority that creates an internal pay inequity is prohibited from using the employee(s) who benefited as a comparator for purposes of discretionary salary increases under this policy for a period of twelve (12) months.

3. Reemployment at a higher salary will only be approved if the employee had a break in state service consisting of a minimum of 120 days. In the case of reemployment to a position in a higher compensation range, the appointing authority may increase the employee's salary consistent with Board approved pay increments not to exceed 25% or the new minimum, whichever is greater.

B. SALARY ADVANCEMENTS. Salary advancements are discretionary and limited to permanent employees. Any discretionary salary advancement shall be limited to a maximum of 10% in any 12-month period and shall not cause the new salary to exceed the maximum of the compensation range to which the employee's class is allocated. For the purpose of determining eligibility, the 12-month period shall be the 12-month period immediately preceding the effective date of the salary increase.

1. A salary advancement is limited to a maximum established by the Board and is subject to change, and shall not cause the new salary to exceed the maximum of the compensation range.

2. A salary advancement shall be based on quality performance as evidenced by the Employee Performance Appraisal 3 (EPA-3) annual employee performance appraisal form for the previous performance rating cycle and shall not be given to any employee whose documented performance appraisal rating is below Meets Expectations.

3. A request for salary advancement must be submitted within six (6) months of the conclusion of the rating period.

4. Salary increases based on reallocation, general wage increases mandated by the Legislature, or retention incentives passed by the Board do not count toward the 10% maximum.

C. PROMOTION/REALLOCATION/DEMOTION. When an employee is promoted, reallocated, or demoted his or her pay shall be adjusted as follows:

1. Salaries shall be increased 7% the first pay increment, 5% the second pay increment, 4% the third pay increment and 3% for each subsequent pay increment to a maximum of 25% or to the minimum rate of the compensation range for the class, whichever is greater, except where an employee accepts a lesser increase within the compensation range to obtain the position. If a position is reallocated and an appeal results in an additional reallocation of the position, the employee's salary shall only be increased by the appropriate amount for the additional pay increment(s). For example, if a position is initially reallocated to a classification one pay increment higher and the employee's salary was increased 7%, if on appeal, the position is determined to be another pay-increment higher, the employee's salary shall only be increased by an additional 5% for the second pay increment.

2. Additional increments may be granted, at the discretion of the appointing authority, if the employee being promoted or reallocated has qualifications exceeding the minimum required for the new classification. The appointing authority may grant an additional increase of up to 5% for each six (6) months of pertinent training or experience beyond that required for the new classification, not to exceed 25% for the total increase or to the maximum rate of the new compensation range.

3. An employee who has been demoted without prejudice may retain his or her current salary or have his or her salary reduced at the appointing authority's discretion so long as the employee's pay rate is within the compensation range of the job class to which the employee was demoted.

4. An employee who is subsequently promoted or reallocated within the next 24 months within the same agency, shall receive a salary increase under this section only to the extent that they would have received a salary increase had they not been demoted or reallocated to a lower compensation range. For example, an employee in Agency A is demoted from compensation range 7 to compensation range 5 with no loss in pay and who is subsequently promoted to compensation range 8 within Agency A 12 months later, would receive a 7% increase (the one pay increment they would have received as a result of being promoted from the original compensation range 7 position).

5. An employee who is demoted with prejudice shall receive a reduction in pay by at least one (1) increment as established by the Board (currently 7% for the first increment) and the employee's pay rate shall not exceed the maximum or be below

the minimum of the new compensation range. The reduction may be to any pay rate within the compensation range of the job class to which the employee is demoted.

D. DISCRETIONARY PAY DIFFERENTIALS. The following discretionary pay differentials are established to address circumstances which apply or can be applied to reasonably defined groups of employees. Each discretionary pay differential requires prior approval of the Director before the appointing authority implements salary adjustments under this section of the policy. Discretionary increases shall be based on the most recent EPA-3 for that cycle which shall accompany any request submitted under this section of the policy and a discretionary increase shall not be given to any employee whose documented performance appraisal rating is below Meets Expectations.

1. Additional duties/responsibilities. An appointing authority may recommend an in-range salary adjustment for an employee who has been assigned additional duties on a temporary or permanent basis beyond those expected of the position, where a completed Position Description Form has been reviewed by the Division and where a change in classification is not warranted or not possible. The appointing authority shall document the nature and extent of the new duties and/or responsibilities in the request.

   a. The percent adjustment recommended from the implementation date of this revision and going forward shall not be more than 5% of the employee's salary.

   b. The additional duties must meet one or more of the following criteria:

      1) assignment of responsibility for a distinct new or additional program(s);

      2) assignment of new responsibility due to agency reorganization/realignment;

      3) assignment of substantial additional supervisory responsibility; or,

      4) assignment of a substantial amount of additional duties and/or responsibility.

   c. The Director shall evaluate the extent of the additional duties relative to the current duties assigned to the position.

   d. The new duties, when evaluated separately, must be considered a substantial addition to the position, equivalent to or higher than the current classification level of the position, and must add to the variety and scope of the position.

e. If an employee receives an in-range salary adjustment for assuming additional duties and is subsequently reallocated within the next twelve (12) months based in part on assuming these additional duties, the appointing authority shall reduce the salary increase due for the reallocation by the percent amount of the in-range salary adjustment the employee received for assuming additional duties.

f. Appointing authorities recommending a temporary in-range salary adjustment for a permanent employee assigned additional duties that are temporary in nature shall:

   1) Include a letter of understanding signed by the employee which details the terms and conditions of the assignment, including at a minimum, the reason, duration, and temporary nature of the upgraded salary. The letter shall be included in the documentation required to process the request and the Personnel Transaction making the salary adjustment effective. A Personnel Transaction is required to discontinue the in-range salary adjustment and return the employee to the previous salary upon conclusion of the assignment. The previous salary shall include any salary increases the employee would have received irrespective of the temporary in-range adjustment.

   2) Process the Personnel Transaction to return an employee to the appropriate salary after the duties are no longer being performed. Failure to do so will result in exclusion of that agency from participation in discretionary increases under this policy until such time as the agency comes into compliance.

   3) Inform the Division of any alteration or change in the assigned additional duties, and may be required to submit additional documentation as required by the Director for justification of continued salary adjustment.

2. Retention Incentive. An appointing authority may recommend an in-range salary increase of up to 10% of current salary to all employees in a job classification, within the agency-defined organizational work unit, for which documented salary non-competitiveness has been established. The appointing authority shall provide documentation to include but not limited to turnover rates for the last twelve (12) months, reasons for separation from employment, the number of filled and vacant positions in the job classification, any recruitment initiatives, the number of internal applicants and eligible applicants on the register(s) and contact results, and tenure in class for the employees in the job classification.

3. Internal Equity. In situations in which one or more permanent, current employees are paid no less than 20% less than other permanent, current employees in the same job classification and within the same agency-defined organizational work unit, the appointing authority may recommend an in-range salary adjustment of up to 10% of current salary to every employee in the organizational unit whose salary is 20% less than other employees in the agency-defined work unit.

    a. The following conditions must be met in order for an employee to qualify for an internal equity increase:

        1) The employee must be paid at least 20% less than the employee to whom he or she is being compared (No rounding);

        2) The employees must be in the same agency-defined organizational unit;

        3) The employees must be in the same classification for at least twelve (12) consecutive months at the time of the request;

        4) The employees must have comparable education;

        5) The employees must have comparable training;

        6) The employees must have comparable experience;

        7) The employees must have comparable duties and responsibilities;

        8) The employees must have comparable performance levels based upon the EPA-3 for each employee;

        9) The employees must have comparable years of classified service.

    b. The purpose of internal equity adjustments is to facilitate more equitable pay among similarly situated employees and not to recognize superior performance. Internal equity adjustment is not intended to ensure employees in the same job classification receive the same salary.

    c. For purposes of this policy, comparable years of classified service shall be defined as within five (5) years with the following exceptions:

1) Employees, who have attained ten (10) or more years of classified service experience may be compared to other employees with 20 or more years of classified service.

2) Employees with greater tenure in the classified service may be compared to less tenured employees in the classified service who are paid at a minimum 20% more than the greater tenured employee.

3) The Director of Personnel shall determine if exceptions to subparagraphs 1. and 2. of this subsection are necessary based upon the minimum qualifications of the classification.

d. Internal equity increases shall be limited to once every three (3) years for the same job classification in the same agency.

e. The employee(s) used for comparison cannot have received a discretionary increase in the last 12 months, cannot be in a temporary classification upgrade status, cannot be receiving a salary adjustment for additional temporary duties, cannot be receiving a Project Based Incentive increase, and cannot have been appointed, promoted, or reallocated to the classification within the last twelve (12) months.

f. When the appointing authority requests a pay equity increase for an employee, it shall provide a request for and documentation to the Division for all employees in the same job classification within the agency-defined work unit, including their tenure and salary, who may also be eligible for a pay equity increase.

g. The appointing authority shall submit a completed DOP-PPP-III.D.3 and also provide any additional supporting documentation as required by the Division.

4. Professional Skills/Competency Development. Under the following conditions, an appointing authority may recommend an in-range salary adjustment of up to 10% of current salary, based upon DOP-PPP-III.D.4, to an employee who acquires certain formal training, education, certification, or licensure, not required to meet the minimum qualifications of the job classification to which the position the employee occupies is assigned.

a. The appointing authority must file with the Director a list for prior approval of professional skills/competencies for the formal training/education, certification, or licensure and related competencies of the job classification for which this type

of adjustment will be authorized, and the amount of the adjustment. Failure to obtain prior approval shall result in denial.

b. When the appointing authority requests a discretionary increase under this section for an employee, it shall provide a request for and documentation to the Division for all employees who acquire the same formal training, education, certification, or licensure.

c. The formal training, education, certification or licensure, must be received subsequent to appointment to the classification.

d. The formal training, education, certification or licensure must demonstrate the acquisition of competencies which are used in the essential duties of the job class and/or position and are critical to the ongoing operations of the agency.

e. An employee may receive an in-range salary adjustment under this section for which they applied and received reimbursement for employment-related educational expenses under the West Virginia Division of Personnel Education Expense Reimbursement/Leave Program Policy (DOP-P16).

f. The request for an in-range salary adjustment shall be submitted within one (1) year of the employee obtaining the formal training, education, certification or licensure.

g. No in-range salary adjustment shall be permitted under this policy for any recertification, regardless of whether the employee received an in-range salary adjustment for the original certification.

5. Competitive Salary Offer. Under the following conditions, an appointing authority may recommend a one-time salary adjustment to retain an employee who has submitted a formal written resignation accepted by the agency to obtain a position outside of the classified service with the same duties for greater compensation.

   a. The appointing authority must verify that the employee is resigning to accept a bona fide written offer of employment for greater salary from a State agency exempt from the pay plan and salary regulations of the Division, or an organization outside of state government.

   b. The amount of the salary adjustment shall be based on the amount of the offer of employment not to exceed the salary for which the employee would qualify if

being newly hired to his or her current job classification or 10% of the employee's current salary whichever is less.

c. The appointing authority must provide a copy of the written bona fide offer of employment, the resignation letter from the employee, and the resignation acceptance letter, along with any other documents required by the Director.

d. The appointing authority must verify that there are no current employees with substantially equal qualifications who can fill the position.

e. The appointing authority must verify that the one-time salary adjustment would not create an inequity that would place the employee 20% or more above others in the same classification and organizational unit.

6. Recruitment Incentives. An appointing authority may recommend a lump sum payment not to exceed the equivalent of one month's salary to an applicant who accepts employment in a job classification for which there is documented recruitment difficulty. The following conditions must be met prior to the authorization of the payment.

   a. The appointing authority must identify and submit to the Director the job classification(s) and geographic area(s), if applicable, eligible for a recruitment incentive.

   b. The Director shall certify that the job classification(s) and geographic area(s), if applicable, requested are those for which there is documented recruitment difficulty.

   c. The appointing authority and the Director will assure that the availability of a recruitment incentive is made part of all job postings for those positions approved for incentive pay.

   d. By formal written agreement the new employee must agree to work for the agency for a period of twelve (12) months or repay the entire amount of the recruitment incentive if the agreement is not fulfilled.

   e. Appointing authorities must submit a completed DOP-PPP-III.D.6 form, documentation detailing the recruitment efforts undertaken, and the lump sum amount requested.

7. Project-Based Incentive. Under the following conditions, an appointing authority may recommend a temporary in-range salary adjustment of up to 10% of current salary for a permanent employee assigned to a long-term project outside the scope of the essential functions of employee's current position.

   a. Projects eligible for a project-based incentive must be approved in advance by the Director. Failure to provide documentation in advance shall result in denial. The appointing authority shall submit a completed DOP-PPP-III.D.7 and also provide any additional supporting documentation as required by the Division.

   b. Projects submitted for approval for a project-based incentive must include the following:

      1) A project plan submitted to the Division which identifies the project as a collaborative effort to accomplish new work assigned or to develop a more efficient, cost-saving process for performance of ongoing work of the agency;

      2) A beginning date and estimated completion date for the project which will encompass a minimum of twelve (12) months;

      3) A staffing plan which identifies each employee on the project team by position number, classification, salary;

      4) Specific deliverables identified for each employee;

      5) For interdepartmental projects, a memorandum of understanding wherein the participating agencies agree on the project scope, timeline, deliverables and conditions of incentive payments to eligible employees; and,

      6) A letter of understanding signed by the employee which details the terms and conditions of the assignment, including, at a minimum, the reason, duration and temporary upgraded salary. The letter shall be included in the documentation required to process the Personnel Transaction making the salary adjustment effective. A Personnel Transaction is required to discontinue the in-range salary adjustment and return an employee to the previous salary upon conclusion of the assignment. The previous salary shall include any salary increases the employee would have received irrespective of the temporary in-range adjustment.

c. Failure of an agency to process the Personnel Transaction to return an employee who has received a temporary increase under this section to the appropriate salary after the completion of the project will result in the exclusion of that agency from participation in discretionary increases under this policy until such time as the agency comes into compliance with this policy.

E. FORMS. The Director shall prescribe what documentation is required under each section of this policy and shall prescribe forms upon which each type of recommendation is to be submitted.

F. An employee may receive no more than a total of 10% in-range salary adjustment(s) in a 12-month period unless otherwise provided in this policy.

G. RECONSIDERATION. The appointing authority may seek a reconsideration of a decision made by the Division by submitting a written request to the Director within fifteen (15) working days of the disapproval date. Should the request result in the discretionary in-range salary increase being granted, there will be no retroactive payments.

H. PERSONNEL TRANSACTIONS.

1. Sequence of Multiple Pay Actions when two (2) or more pay actions have the same effective date, the transactions shall be processed in the sequence that is most beneficial to the employee.

2. Effective Date - Personnel Transactions under this Policy shall not be effective until all necessary approvals have been obtained.

I. AUTHORITY.

1. Classified Service. - Upon approval of this policy, the Board assigns and authorizes the Director to interpret and apply the policy in conjunction with the *Administrative Rule* of the Division or any other applicable Division law, rule or policy in a manner consistent with fair and equitable pay administration.

2. Classified-Exempt Service. - This policy may also apply to classified-exempt positions at the discretion of the Governor's Office, a Cabinet Secretary or an agency head. When adopting this policy for classified-exempt positions, the Cabinet Secretary or agency head shall notify the Director of Personnel of such intent in writing.

IV. REFERENCES

A. W.Va. Code 29-6-10 *et seq*.

B. Division of Personnel *Administrative Rule* (143CSR1),

C. Largent v. W. Va. Div. of Health and Div. of Pers., 192 W.Va. 239, 452 S.E.2d 42 (1994).

V. EFFECTIVE DATE: May 1, 1994.

VI. REVISIONS

A. Previous Revisions: December 1, 1994 (to include pilot program provisions only); August 1, 1996; January 1, 2002; July 1, 2002; August 1, 2004; July 1, 2005; and July 16, 2014.

B. Latest Revision: July 1, 2016.

VII. POLICY NUMBER: DOP-P12.

Approved and issued by:

Sara P. Walker

Sara P. Walker, Director of Personnel

Date Signed: June 30, 2016