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MEMORANDUM

PERSONNEL MEMO 23-13

To: Constitutional Officers
Cabinet Secretaries
Agency Heads
Human Resource (HR) Administrators

From: Mary Elizabeth Bailey, Secretary

Date: December 5, 2023

Re: Regulation Amendments: 101 KAR 2:034, 101 KAR 2:095, 101 KAR 2:181, and 101 KAR 3:045

Several amendments to Personnel Cabinet regulations are effective December 5, 2023. The Personnel Cabinet's Department of Human Resources Administration (DHRA) will be providing any additional guidance, as necessary, to Human Resource Administrators on these changes.

101 KAR 2:034 – Classified compensation administrative regulations: Along with general maintenance edits, the regulation is amended as follows:

- **Section 1. New Appointments:**
 - Subsection (2) – An amendment is added to state that the salary adjustments made as a result of a new appointment apply only to those employees who are not on initial or promotional probation.
 - Subsection (3) – This new subsection is added to give the appointing authority discretion, if sufficient funds are available, to adjust the salaries of incumbent employees, who are not on initial or promotional probation, whose salaries are less than five (5) percent above that of a newly appointed classified employee. This will prevent the new appointee from surpassing the incumbent employee's salary once the new appointee completes probation and receives a five (5) percent salary increase.
- **Section 2. Reentrance to Classified Service:**
 - Subsection 2(a) – This subsection concerning salaries is amended to apply to the reinstatement of employees "after a break in continuous employment in the classified service."
 - Subsection (2)(a)(2), (2)(b)(2), (2)(c)(2) – These new subsections are added to give the appointing authority discretion, if sufficient funds are available, to adjust the salaries of incumbent employees, who are not on initial or promotional probation, whose salaries are less than five (5) percent above the salary of reentering employees. This will prevent the new appointee from surpassing the incumbent employee's salary once the new appointee completes probation and receives a five (5) percent salary increase.

- Section 3. Salary Adjustments:
 - Subsection (1)(a), (3)(a)(2), (4)(a), (5)(a) – These subsections are amended to include limits on salary increases resulting from promotion, reclassification, reallocation, and detail to special duty personnel actions if an employee was previously demoted, reclassified or reallocated to a lower grade without a salary reduction.
 - Subsection (1)(b), (3)(a)(2) – Eliminated previous demotion exceptions that applied to promotion and reclassification salary increases up to midpoint of the pay grade.
 - Subsection (5)(b) and (c) – These subsections are amended to permit an appointing authority, if sufficient funds are available, to adjust the salary of a detailed employee up to midpoint of the pay grade under certain circumstances. **This same revision is made to 101 KAR 3:045 for unclassified employees.**
 - Subsection (7)(a) – This subsection is amended to state that salary increases due to pay grade changes will not apply to employees who have been demoted, reclassified, and reallocated to a lower pay grade and retained their salary.
 - Subsections (7)(a)(1), (7)(a)(2), and (9)(a) are amended to clarify that the percentage salary increases resulting from pay grade changes are “per pay grade.” **This same revision is made to 101 KAR 3:045 for unclassified employees.**
 - New subsection (7)(a)(3) is added to permit the Personnel Cabinet to determine percentage salary increases for pay grade changes. **This same revision is made to 101 KAR 3:045 for unclassified employees.**
 - New subsection (9)(b) is added to allow an appointing authority to adjust salaries 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. **This same revision is made to 101 KAR 3:045 for unclassified employees.**
- Section 4. Salary Advancements: New subsection (3) is added to state that an employee who separates prior to the first month following completion of a probationary period shall forfeit their five (5) percent probationary salary advancement.
- Section 9. Supplemental Premiums:
 - Subsection (1)(a) is amended to permit the Personnel Cabinet Secretary to establish and direct locality premiums. **This same revision is made to 101 KAR 3:045 for unclassified employees.**
 - New subsection (6) is added to permit the Personnel Cabinet Secretary to authorize sign-on bonuses for classified positions if an appointing authority substantiates sustained recruitment and retention issues impacting the agency’s mission. **This same revision is made to 101 KAR 3:045 for unclassified employees.**
- Section 10. Employee Recognition Award (ERA):
 - Subsection (1)(a) is eliminated. This subsection required an employee to have an established annual increment date and to have met certain months of service requirements before being eligible for an ERA. **This same revision is made to 101 KAR 3:045 for unclassified employees.**
 - Subsection (5) is eliminated. This subsection limited the granting of ERAs to twenty-five (25) percent of the total number of full-time employees in a department or office in a calendar year. **This same revision is made to 101 KAR 3:045 for unclassified employees.**
- Section 11. Adjustment for Continuing Excellence (ACE) Award:
 - New subsection (2)(b) is added to exclude an employee who received either of the two (2) lowest possible evaluation ratings on their most recent performance evaluation from eligibility for an ACE award.
 - Subsection (4) is eliminated. This subsection limited the granting of ACE awards to twenty-five (25) percent of the total number of full-time employees in a department or office in a

calendar year. **This same revision is made to 101 KAR 3:045 for unclassified employees.**

101 KAR 3:045 – Compensation plan and pay incentives for unclassified service: In addition to the above noted amendments that apply to both the classified and unclassified compensation regulations, this regulation is amended as follows:

- **Section 2. Reentrance to State Service:** Subsection (2)(b) is amended to remove the pay grade limitation that previously applied to the salary establishment for reentering employees who previously served in the classified or unclassified service.
- **Section 8. Supplemental Premiums:** Subsection (5) is added to authorize critical position premiums for unclassified staff if certain criteria are met. This amendment mirrors the critical position premium criteria set for the classified staff.
- **Section 9. Employee Recognition Award (ERA):** Subsection (1) is amended to permit the granting of 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**, as opposed to the grade midpoint, which was previously specified.
- **Section 10. Adjustment for Continuing Excellence (ACE) Award:** Subsection (1) is amended to permit the granting of an ACE award in any whole percentage from one (1) to ten (10) percent of the **employee's annual salary**, as opposed to the grade midpoint, which was previously specified.

101 KAR 2:095 – Classified service general requirements: New subsection (9) is added to permit the Personnel Cabinet to correct an executive branch's pay or leave error in the best interest of the Commonwealth, with the appointing authority's concurrence. **This same revision will also apply to unclassified employees pursuant to 101 KAR 3:050.**

101 KAR 2:180 – Employee performance evaluation system: This regulation, which governed hard copy evaluations prior to the utilization of MyPURPOSE, has been repealed.

Please direct questions to Jamie Caldwell, Commissioner, Department of Human Resources Administration, at Jamie.Caldwell@ky.gov or (502) 564-7571, or the Office of Legal Services, at (502) 564-7430.