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REGULATIONS COMPILER

1 PERSONNEL CABINET

2 (Amendment)

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

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

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

6 NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.155 requires the Secretary of

7 Personnel to promulgate administrative regulations for persons in positions enumerated

8 in KRS 18A.115(1)(g), (h), (i), (j), (k), (p), (t), and (u). KRS 18A.110 requires the secretary

9 to promulgate comprehensive administrative regulations for the unclassified service. KRS

10 18A.202 authorizes the secretary to implement work-related incentive programs for state

11 employees. This administrative regulation establishes the compensation plan and pay

12 incentives for employees in unclassified service.

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

15 Section 2. Reentrance to State Service. (1) Returning retirees. An employee who was
16 formerly employed under KRS Chapter 18A and who is appointed to a position covered
17 by the provisions of KRS Chapter 18A, while receiving retirement payments through the
18 Kentucky Public Pensions Authority or Kentucky Teachers Retirement System, shall be
19 appointed in accordance with the provisions for new appointments in this administrative
20 regulation.

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

3 (a) In accordance with the standards used for making new appointments in this
4 administrative regulation; or

5 (b) Up to a salary formerly paid in the classified or unclassified service~~[, if that salary is~~
6 ~~within the current pay grade].~~

7 Section 3. Salary Adjustments. (1) Promotion.

8 (a)1. An employee who is promoted shall receive a five (5) percent increase or an
9 increase to the minimum of the new grade, whichever is greater; or

10 2. An appointing authority may grant a salary increase of five (5) percent per grade upon
11 promotion.

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

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

17 (a) The employee's salary shall be reduced to a rate that is not below the minimum for the
18 job classification to which the demotion is made;

19 (b) The employee shall retain the salary received prior to the demotion. If the employee's
20 salary is not reduced upon demotion, the appointing authority shall explain the reason in
21 writing and place the explanation in the employee's personnel files; or

22 (c) In the event of a salary schedule adjustment of an entry level wage of a pay grade, if
23 an employee demoted to a lower pay grade, retained his or her salary, and was

1 subsequently promoted and on promotional probation on the effective date of the new
2 salary schedule, if the employee's salary is less than five (5) percent above the new entry
3 level salary of the pay grade assigned to that employee on the effective date, the
4 Personnel Cabinet shall adjust that employee's salary to five (5) percent above the new
5 entry level wage.

6 (3) Reclassification.

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

9 1. The greater of five (5) percent or the new grade minimum;

10 2. The greater of five (5) percent for each grade or the new grade minimum; or

11 3. If sufficient funds are available, up to the midpoint of the pay grade as long as the
12 increase is greater than the increase specified in subparagraph 1. of this paragraph.

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

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

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

21 (4) Reallocation.

22 (a) An employee who is advanced to a higher pay grade through reallocation shall receive
23 a five (5) percent increase or an increase to the new grade minimum, whichever is

1 greater. An appointing authority may grant a five (5) percent increase per grade upon
2 reallocation to a higher grade.

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

5 (5) Detail to special duty.

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

10 (b) If sufficient funds are available, an appointing authority may adjust the salary of an
11 employee who is placed in the same pay grade or higher pay grade through detail to
12 special duty, up to the midpoint of the pay grade, as long as the increase is greater than
13 the increase specified in subsection (5)(a) of this section.

14 (c) An employee who is detailed to special duty to the same or lower grade shall continue
15 to receive the same salary except as provided under subsection (5)(b) of this section.

16 (6) Reversion.

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

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

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

- 1 1. The salary received prior to leaving the classified service; and
- 2 2. All salary advancements and adjustments which would have been awarded if the
- 3 individual had remained in the classified service.
- 4 (7) Pay grade changes.
- 5 (a) If a job classification is assigned to a higher pay grade, the appointing authority shall
- 6 raise the salary of an employee below the new grade minimum to the new grade
- 7 minimum. If sufficient funds are available, an appointing authority may uniformly adjust
- 8 the salary of all employees in that agency in that job classification to:
- 9 1. The greater of the new grade minimum or five (5) percent per pay grade; [or]
- 10 2. The greater of the new grade minimum or ten (10) percent per pay grade; or
- 11 3. At a percentage determined by the Personnel Cabinet.
- 12 (b) If a job classification is assigned to a lower pay grade, an employee in that job
- 13 classification shall retain his current salary.
- 14 (8) Special entrance rates. If a special entrance rate is established for a job classification,
- 15 an appointing authority shall adjust the salary of an employee in that job classification,
- 16 who is below the special entrance rate, to the new rate. If sufficient funds are available,
- 17 on the same date as the establishment of the special entrance rate, an appointing
- 18 authority may also grant a salary adjustment equal to the difference between the entrance
- 19 of the pay grade and the new special entrance rate to other employees in that job
- 20 classification, except those employees who are on initial probation.
- 21 (9) Other salary adjustments.

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

4 (b) On the 16th of a month, an appointing authority may grant a salary adjustment to an
5 employee within an agency who was eligible for, but did not receive at least a five (5)
6 percent per pay grade increase or ten (10) percent per pay grade increase [advancement]
7 as a result of a grade change on or after January 1, 1999.

8 The total adjustment under this provision when combined with an increase at the time of
9 the grade change shall equal a five (5) percent per pay grade increase or ten (10) percent
10 per pay grade increase to [of] the employee's salary immediately prior to the grade
11 change. Such adjustment shall not be retroactive.

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

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

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

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

22 (10) Conversion rule. The salary of an employee whose position changes from a thirty-
23 seven and five-tenths (37.5) hour workweek to a forty (40) hour workweek, or vice versa,

1 shall be converted to accurately reflect the employee's hourly rate of base pay. This
2 conversion shall be applied before applying any other salary adjustment to which the
3 employee is entitled pursuant to this section.

4 Section 4. Salary Advancements. (1) Initial appointment increase. An appointing authority
5 may grant a five (5) percent increase to an employee, except an interim employee, on the
6 first day of the month following completion of the greater of six (6) months of service or
7 the months of service required by 101 KAR 1:325 Section 1 (2).

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

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

12 (a) On the first day of the month following completion of the initial probation period; or

13 (b) On the first day of the month following completion of twelve (12) months service since
14 receiving the last annual increment for an employee, other than an interim employee, who
15 returns from leave without pay.

16 (4) Annual increment dates shall not change if an employee:

17 (a) Is in a position which is assigned a new or different pay grade;

18 (b) Receives a salary adjustment as a result of his position being reallocated;

19 (c) Is promoted;

20 (d) Is transferred;

21 (e) Is demoted;

22 (f) Is detailed to special duty;

23 (g) Receives an educational achievement award;

1 (h) Returns from military leave;

2 (i) Is reclassified; or

3 (j) Receives an increase six (6) months following promotion.

4 (5) Return from leave without pay. An employee, other than an interim employee,
5 returning to duty from leave without pay shall receive an annual increment on the first of
6 the month after receiving compensation in any twelve (12) months since the last
7 increment was received.

8 (6) Service computation. Full-time and part-time service shall be counted when computing
9 service for purposes of determining increment eligibility. Service as an interim employee,
10 or in the former seasonal, temporary, or emergency categories shall not be considered.

11 (7) Order of calculating increments and other salary increases which occur at the same
12 time. If an employee's increment date occurs on the same date that a salary adjustment
13 or advancement is granted, the increment shall be applied before the adjustment or
14 advancement is added to the employee's salary, except if the adjustment is based on a
15 reversion, pay grade change, a salary schedule change, or establishment of a special
16 entrance rate.

17 Section 5. Educational Achievement Award. (1) On the 16th of a month, an appointing
18 authority may grant a five (5) percent increase to an employee's base salary based on
19 educational achievement as specified in this section.

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

22 (3) An employee shall not receive more than one (1) educational achievement award in a
23 fiscal year.

1 (4) An employee shall not receive an educational achievement award and an adjustment
2 for continuing excellence (ACE) based on the same training.

3 (5) By submitting a personnel action to grant an educational achievement award, the
4 appointing authority shall certify that all of the qualifying conditions established in
5 subsection (5) of this Section for the appropriate type of educational achievement award
6 have been met.

7 (a) For a high school diploma, high school equivalency certificate, or a passing score on
8 the GED test, the qualifying conditions shall be met if:

9 1. The employee has obtained the high school diploma, equivalency certificate, or
10 passing score on the GED test:

11 a. Outside of work hours;

12 b. While in state service; and

13 c. After establishing an increment date.

14 2. The employee has not previously attained a high school diploma, equivalency
15 certificate, or passing score on the GED test; and

16 3. The employee has not completed college coursework on the undergraduate or
17 graduate level prior to obtaining the high school diploma, equivalency certificate, or a
18 passing score on the GED test.

19 (b) For postsecondary education or training, the qualifying conditions shall be met if:

20 1. The employee has completed 260 hours of job-related instruction, or the equivalent;

21 2. The employee began the course work after becoming a state employee and completed
22 the course work after establishing an increment date;

- 1 3. The employee has completed the course work within five (5) years of the date on which
- 2 it was begun;
- 3 4. The course work has not previously been applied toward an educational achievement
- 4 award;
- 5 5. The agency has not paid for the course work or costs associated with it, in whole or in
- 6 part; and
- 7 6. The employee was not on educational or extended sick leave when the courses were
- 8 taken.

9 Section 6. Salary Schedule Adjustment. (1) If the secretary authorizes an adjustment of a
10 [~~the~~] salary schedule, an appointing authority shall adjust the salaries of all employees
11 below the new schedule entry level wage for the pay grade to the new schedule entry
12 level wage for the pay grade. If sufficient funds are available, the secretary may authorize
13 an appointing authority to grant a salary increase for all employees equal to the difference
14 in the old schedule entry level wage for the grade and the new schedule entry level wage
15 for the grade.

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

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

8 Section 8. Supplemental Premiums. (1) Locality premium.

9 (a)1. Upon request by an appointing authority, the secretary may authorize and establish
10 the amount of the payment of a locality premium for an employee who is regularly, ~~[or]~~
11 temporarily, or intermittently assigned to work in a job classification, work county, and
12 organizational unit where the agency can demonstrate sustained recruitment and
13 retention issues impacting the mission of the agency; or

14 2. The secretary may direct the payment of a locality premium for an employee who is
15 regularly, temporarily, or intermittently assigned to work in a job classification, work
16 county, and organizational unit where there are demonstrated sustained recruitment and
17 retention issues impacting the mission of the agency.

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

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

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

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

5 (2) Shift premium.

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

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

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

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

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

18 (3) Weekend premium.

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

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

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

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

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

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

11 (4) Multilingual hourly premium.

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

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

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

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

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

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

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

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

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

20 (5) Critical position premium.

21 (a) Upon request by an appointing authority, the secretary may authorize the payment of
22 a premium for a position held by an employee who has established an annual increment

1 date and is regularly assigned to perform job duties that are deemed critical to the
2 operation of the agency.

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

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

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

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

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

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

19 (6) Sign-on bonus.

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

- 1 1. The positions are in the same job classification, work county, and department or office
2 where the appointing authority can substantiate sustained recruitment and retention
3 issues impacting the mission of the agency;
- 4 2. The total amount of the sign-on bonus is uniform and does not exceed \$5,000 for the
5 job classification; and
- 6 3. Eligibility for the sign-on bonus is limited to a newly appointed or rehired employee
7 who:
- 8 a. Has not been employed in a KRS Chapter 18A classified position within ninety (90)
9 calendar days preceding the effective date of appointment or rehire;
- 10 b. Has not previously received any amount of sign-on bonus pursuant to this subsection;
11 and
- 12 c. Is working or on approved leave at the time payment is scheduled to be issued.
- 13 (b) Once a sign-on bonus is authorized by the secretary, an eligible employee shall
14 receive:
- 15 1. Twenty-five (25) percent of the total sign-on bonus on the first day of the month after
16 appointment or rehire;
- 17 2. Twenty-five (25) percent of the total sign-on bonus on the first day of the month after
18 completion of six (6) months of active service in the position into which the employee was
19 appointed or rehired; and
- 20 3. Fifty (50) percent of the total sign-on bonus on the first day of the month after
21 completion of twelve (12) months of active service in the position into which the employee
22 was appointed or rehired.

1 (c) An employee shall not receive future payment of any portion of a sign-on bonus after
2 transfer, promotion, or demotion to a position in a job classification, department or office,
3 or work county other than the position into which the employee was appointed or rehired.

4 (d) An employee who is detailed to special duty or whose position is reclassified or
5 reallocated shall remain eligible for future payment of the original sign-on bonus amount.

6 (e) The secretary may rescind authorization to pay a sign-on bonus at any time prior to
7 the effective date of appointment or rehire.

8 (f) A sign-on bonus shall not be considered a part of base pay or wages and shall not be
9 applied to any leave time usage.

10 Section 9. Employee Recognition Award (ERA). (1) On the 16th day of a month, an
11 appointing authority may grant an employee an ERA in the form of a lump sum payment
12 of any whole percentage from one (1) to ten (10) percent of the employee's annual salary
13 [grade midpoint] under the following conditions:

14 ~~(a) [The employee has established an annual increment date and has worked at least~~
15 ~~twenty-four (24) consecutive months in KRS Chapter 18A state service, twelve (12)~~
16 ~~consecutive months of which is in the department or office granting the award;~~

17 ~~(b)]~~ The employee has not received an ERA in the preceding twenty four (24) months, nor
18 an Adjustment for Continuing Excellence (ACE) award in the preceding twelve (12)
19 months; and

20 (b) [(e)]1. The appointing authority determines that the employee's acts or ideas have
21 resulted in significant financial savings or improvements in services to the Commonwealth
22 and its citizens;

23 2. The employee has exhibited distinguished performance during participation in special

1 projects that have had a significant beneficial impact on the department, office, or
2 governmental operations; or

3 3. The employee has demonstrated a sustained level of exceptional job performance.

4 (2) An employee shall not be eligible for an ERA under this section for an act or idea that
5 has been approved or submitted for consideration as an Employee Suggestion System
6 Award. An employee who has received an ERA shall not be eligible to be considered for
7 an Employee Suggestion System Award for those acts or ideas upon which the ERA is
8 based.

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

10 (4) If an appointing authority grants an ERA, the justification for the award shall be stated
11 in writing, and placed in the employee's personnel files.

12 (5) ~~[An appointing authority shall not grant an ERA to more than twenty-five (25) percent
13 of the total number of full-time employees in a department or office in a calendar year.]~~

14 [(6)] An appointing authority shall submit a written justification to the Personnel Cabinet to
15 award an ERA. The justification shall:

16 (a) Explain the reason or reasons for the granting of the award; and

17 (b) Include a certification by the appointing authority that:

18 1. Sufficient funds are available within the department or office; and

19 2. The criteria and limitations established in this section have been met.

20 Section 10. Adjustment for Continuing Excellence (ACE) Award. (1) On the 16th day of a
21 month, an appointing authority may grant a salary adjustment of any whole percentage
22 from one (1) to ten (10) percent of the employee's annual salary ~~[grade midpoint]~~ to a full-
23 time employee's base pay as an ACE award under the following conditions:

- 1 (a) The employee has an established annual increment date;
- 2 (b) The employee has worked at least twenty-four (24) consecutive months in KRS
3 Chapter 18A state service, twelve (12) consecutive months of which shall have been
4 served in the department or office granting the award;
- 5 (c) The employee has not received an ACE award in the preceding twenty-four (24)
6 months or an ERA in the preceding twelve (12) months; and
- 7 (d)1. The employee has demonstrated a sustained level of exceptional job performance;
8 2. The employee has assumed a significant level of additional job responsibilities or
9 duties consistent with the assigned job classification, and has performed them in an
10 exceptional manner; or
- 11 3. The employee has acquired professional or technical skills or knowledge through
12 department or office directed or authorized attainment of a job related licensure,
13 certification, or formal training that will substantially improve job performance.
- 14 (2) An employee shall not be eligible for an ACE award under this section if an
15 educational achievement award has been granted for the same training.
- 16 (3) The granting of an ACE award shall be within the sole discretion of the appointing
17 authority.
- 18 (4) ~~[An appointing authority shall not grant an ACE award to more than twenty-five (25)~~
19 ~~percent of the total number of full-time employees in a department or office in a calendar~~
20 ~~year.]~~
- 21 ~~[(5)]~~ An appointing authority shall submit a written justification to the Personnel Cabinet to
22 grant an ACE award. The justification shall:
- 23 (a) Explain the reason or reasons for the granting of the award; and

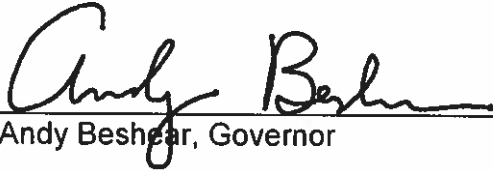
- 1 (b) Include a certification by the appointing authority that:
- 2 1. The criteria and limitations established in this section have been met; and
- 3 2. Sufficient funds are available within the department's or office's current recurring base
- 4 budget to support the award.
- 5 Section 11. Adoption Benefit Program. The provisions of the Adoption Benefit Program
- 6 established in 101 KAR 2:120 shall apply to an employee in the unclassified service.



Gerina D. Whethers, Secretary, Personnel Cabinet

03/10/2023

Date



Andy Beshear, Governor

3/10/2023

Date

PUBLIC HEARING AND PUBLIC 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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

101 KAR 3:045

Contact person: Rosemary Holbrook

Phone: (502) 564-7430

Email: RosemaryG.Holbrook@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the compensation plan and pay incentives for employees in unclassified service.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the compensation plan and pay incentives for employees in the unclassified service.

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

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation ensures the consistent application and handling of compensation and pay incentives for employees in unclassified service.

(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 significant changes are discretionary compensation enhancements, such as the addition of a sign-on bonus option. Other changes include authority for salary adjustments due to internal pay equity or retention issues, addition of a critical position premium to mirror the classified compensation regulation, relaxation of limits on the number of agency employees eligible for recognition awards, and general maintenance edits.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to clarify requirements, enhance flexibility, and promote consistency for unclassified compensation and pay incentives.

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

(d) How the amendment will assist in the effective administration of the statutes: This amendment clarifies requirements, enhances flexibility, and promotes consistency for unclassified compensation and pay incentives.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: KRS Chapter 18A employees in unclassified positions within executive branch agencies and their employing agencies are subject to the provisions of 101 KAR 3:045.

(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: No additional action is required.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost to employing agencies utilizing compensation enhancement changes can only be determined upon future application on a case-by-case basis.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amendments provide for enhanced employee compensation, subject to budget constraints and discretion of the appointing authority or secretary.

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

(a) Initially: The cost of programming changes to the Kentucky Human Resource Information System (KHRIS) is reflected in the companion amendment to 101 KAR 2:034. That cost is not duplicated here.

(b) On a continuing basis: There are minimal additional costs anticipated for continuing administration of this regulation.

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

(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: Implementation of the changes does not require an increase in fees or funding. However, discretionary utilization of some changes may lead

to requests for agency budget increases.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any new or additional fees.

(9) TIERING: Is tiering applied? No. This administrative regulation treats all impacted entities the same.

FISCAL NOTE

101 KAR 3:045

Contact person: Rosemary Holbrook

Phone: (502) 564-7430

Email: RosemaryG.Holbrook@ky.gov

(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? All state agencies with unclassified employees covered under KRS Chapter 18A.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.030(2), 18A.155(1)(b), (e), 18A.110(2), 18A.202(1)

(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? No revenue will be generated.

(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? No revenue will be generated.

(c) How much will it cost to administer this program for the first year? The cost to employing agencies utilizing compensation enhancement changes can only be determined upon future application on a case-by-case basis.

(d) How much will it cost to administer this program for subsequent years? The cost to employing agencies utilizing compensation enhancement changes can only be determined upon future application on a case-by-case basis.

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

Revenues (+/-): \$0

Expenditures (+/-): \$0

Other Explanation: The cost to employing agencies utilizing compensation enhancement changes can only be determined upon future application on a case-by-case basis.

(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? There will not be direct cost savings. Indirect cost savings may be recognized through improved recruitment and retention.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? There will not be direct cost savings. Indirect cost savings may be recognized through improved recruitment and retention.

(c) How much will it cost the regulated entities for the first year? The cost to employing agencies utilizing compensation enhancement changes can only be determined upon future application on a case-by-case basis.

(d) How much will it cost the regulated entities for subsequent years? The cost to employing agencies utilizing compensation enhancement changes can only be determined upon future application on a case-by-case basis.

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

Cost Savings (+/-): \$0

Expenditures (+/-): \$0

Other Explanation: The cost to employing agencies utilizing compensation enhancement changes can only be determined upon future application on a case-by-case basis.

(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 is not anticipated to have a major economic impact.



KENTUCKY PERSONNEL BOARD

Andy Beshear
Governor

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Mark A. Sipek
Executive Director and Secretary

Stafford Easterling
General Counsel

March 10, 2023

Ms. Rosemary Holbrook
Personnel Cabinet
501 High Street, 3rd Floor
Frankfort, KY 40601

RE: Approval of amendments to Personnel Cabinet regulations 101 KAR 2:034, 101 KAR 2:095, 101 KAR 2:181 (Repeal of 2:180), and 101 KAR 3:045

Dear Ms. Holbrook:

In accordance with 18A.110(6), the Personnel Board reviewed the proposed changes to the above regulations presented by the Personnel Cabinet. The Board unanimously approved the changes as submitted during its March 2023 Board Meeting.

If there are any questions regarding the Board's actions or if any additional information is needed, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Sipek".

Mark A. Sipek
Executive Director

TEAM
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