



Oregon

Governor Kate Brown

Department of Administrative Services

Office of the Chief Human Resources Officer

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MEMORANDUM

TRANSMITTAL 198

To: Agency Heads and Agency Human Resources Directors

From: Madilyn Zike, Chief Human Resources Officer

Date: Sept. 29, 2017

Subject: Addenda to Pay Practices policy 20-005-10 and
Alternate Leave Provisions policy 60-000-20

On June 1, 2017, Governor Brown signed into law House Bill 2005, also known as the Pay Equity Bill, expanding pay equity protections to Oregonians and incentivizing employers to correct existing pay inequities between employees who perform “work of a comparable character.”

State HR Policy Changes:

The executive branch, through DAS, is aligning compensation policies and procedures to support both the letter and intent of this important public policy. DAS is also updating the Pay Practices and Alternative Leave Provisions policies, particularly as they relate to new hires.

Starting Oct. 6, 2017, a hiring agency must conduct an assessment to set a new employee’s salary in an equitable manner relative to that of current workers. **Also starting Oct. 6, agencies may not ask for or rely upon the salary history of a candidate to set salary upon appointment.**

Generally speaking, current rates of pay influence salary changes associated with the internal movement of employees by promotion, transfer or demotion. However, agencies may apply the equity considerations specified below if relying on the employee’s current rate of pay results in inequitable pay.

Note: Nothing in the Pay Practices policy addendum supersedes a collective bargaining agreement. The Pay Practices policy only applies to the represented service for purposes of pay upon initial hire and for record-keeping. Agencies must continue to follow applicable provisions

of contracts as they pertain to the internal movement of bargaining unit employees including but not limited to transfer, demotion and promotional pay.

Statewide Equal-Pay Analysis:

The Chief Human Resources Office will oversee a statewide equal-pay analysis of the current executive branch workforce to determine where inequities exist and recommend corrective actions to state leadership. Because state government does not currently have complete and up-to-date data regarding each employee's job-related experience, education and training necessary to do a thorough and accurate equal pay analysis, the CHRO will survey employees to obtain this information.

The statewide equal-pay analysis will ensure that differences in compensation levels of employees performing work of comparable character are based only on:

- a) A seniority system
- b) A merit system
- c) Workplace location
- d) Travel, if travel is necessary and regular for the employee
- e) Education
- f) Training
- g) Experience, or
- h) Any combination of these factors, if the combination of factors accounts for the entire compensation differential.

This work will be conducted during calendar year 2018 with projected implementation expected by Jan. 1, 2019. Adjustments to employee salaries resulting from the statewide equal-pay analysis will be implemented on a prospective basis.

Questions should be directed to CHRO.Policy@oregon.gov.



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MEMORANDUM

To: Agency Heads and Agency Human Resources Directors

From: Madilyn Zike, Chief Human Resources Officer

Date: Sept. 29, 2017

Subject: Addendum A – Pay Practices policy 20-005-10

Emboldened and italicized text reflects revisions and additions to current policy language.

Policy Statement:

As of Oct. 6, 2017, Oregon state government adopts practices and procedures consistent with the Pay Equity law, including some provisions having later effective dates. These include prohibitions against:

- a) *Seeking the salary history of an applicant from the applicant or from a current or former employer of the applicant;*
- b) *Screening job applicants based on current or past compensation;*
- c) *Determining the compensation for a position based on the current or past compensation of a prospective employee who is new to state service;*

Policy Authority: ORS 240.145; 240.190; 240.235; 240.240; 240.245; 240.250; 240.395; 240.430; ***652.220; 659A***

Applicability: Classified unrepresented, management service, unclassified executive service, unclassified excluded and unclassified unrepresented employees ***and temporaries.*** Applies to represented employees only for the purposes of pay upon initial hire and agency documentation requirement (unless in conflict with a collective bargaining agreement).

Definitions:

1. “Compensation” includes wages, salary, bonuses, benefits, fringe benefits and equity-based compensation.
2. “Education” means the act or process of acquiring knowledge through systematic instruction, especially through an accredited academic institution.
3. “Equal-pay analysis” means an evaluation process to assess and correct disparities among employees who perform work of comparable character across the Executive Branch. Note: recommendations for the correction of existing compensation disparities are subject to executive leadership review and approval.
4. “Experience” means the process of gaining knowledge or skill from doing an activity, particularly by holding a position in a specific professional field or occupation.
5. “Internal Assessment” means an evaluation by an agency to determine the appropriate, equitable salary rate for a candidate or an employee relative to the current workforce performing work of a comparable character in terms of education, training and experience or other factor(s) specified in the pay equity law. Factors by which individual employees may be compensated differently for work of a comparable character include: a seniority system; a merit system; workplace location; travel (if necessary and regular for the employee); education; training; experience or; a combination of these factors, if the combination of factors accounts for the entire compensation differential.
6. “Merit system” means an orderly progression of an employee’s pay from the established minimum to maximum rate of a salary range based on documented performance. May include salary adjustments resulting from promotions, special merit increases or other personnel actions.
7. “New Hire” means the appointment of any person into state service, regardless of status (e.g., temporary, permanent, limited duration, seasonal, etc.). Not included in this definition are reemployments, return from layoff or retiree appointments within two years of retirement.
8. “Protected Class” means a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability or age.
9. “Seniority system” refers to an employee’s length of state service and how it relates to their salary, benefits and employment rights (e.g., step increases, vacation leave accrual, layoff rights, etc.).
10. “Training” means the process by which someone is taught the skills needed for a job. Training may be on-the-job experiences, systematic practice or informal instruction.

11. “*Travel, if necessary and regular*” means an employee required to travel from one place to another as part of their regularly scheduled work assignment; not included in this definition, is the regular commute, to and from, an employee’s home and work station.
12. “*Work of comparable character*” means work that requires substantially similar knowledge, skill, effort, responsibility and working conditions in the performance of work, regardless of job description or job title. Note: the state’s job classifications often times provide the best means available for determining which jobs constitute work of a comparable character. At times however, a sub-set of jobs within a classification, particularly a broad job classification such as Principal Executive/Manager or Operations & Policy Analyst, needs to be identified for proper comparison purposes.
13. “*Working conditions*” includes work environment, hours, time of day, physical surroundings and potential hazards encountered by an employee.
14. “*Workplace locations*” means the geographic location(s) (e.g., city/county) where an employee is assigned to work.

Policy Amendments

Effective Oct. 6, 2017, the Pay Practices policy 20-005-10 is amended as follows:

- *Applicability: now also includes temporary staff*
- **Section (1)(b)(B) – Demotion:** Maintains the current pay within the range for the new classification *unless an internal assessment warrants a higher pay rate within the range*. If the current pay is off-step within the new classification, increase at least one full step (to be on a step) in the new classification at the next salary eligibility date (SED), but do not exceed the top step of the new salary range. *Agencies must retain documentation of the assessment and determination of the established rate of pay.*
- **Section (1)(d)(B) – Lump Sum Payments:** *Agencies must complete an internal assessment as defined by this policy prior to offering a lump sum payment.* Normally, lump sum payments are appropriate for higher level or specialized positions where recruitment difficulties are due to any one of the following conditions:
 - (i) a significantly below-market salary range for a specific classification, where changing the salary range on a timely basis is impossible
 - (ii) a position in a generic classification (e.g., Principal Executive/Manager) being extremely sensitive to market pay fluctuations
 - (iii) the nature of the assignment (e.g., added expectations or workload for a short to medium period) which makes the position especially unattractive to potential candidates
 - (iv) *the specialized education, training or experience requirements of the position*

Agencies must retain documentation of the internal assessment and determination of the established lump sum payment.

- *Section (1)(e)(A) – New Hire:* Prior to making a job offer, an agency appointing authority, or management designee, makes an assessment of the candidate relative to the current workforce performing work of a comparable character, to determine the appropriate placement of a new hire in the salary range of a classification. The assessment may take into consideration the seniority, merit, workplace location, travel (if necessary and regular for the employee), education, training, experience or any combination of these factors if the combination of factors accounts for the entire compensation difference. Additionally:
 - (i) Agencies may not seek the salary history of an applicant;
 - (ii) Agencies may not determine compensation for a position based on the current or past compensation of a prospective employee who is new to state service;
 - (iii) Agencies must retain documentation of the internal assessment and determination of the established rate of pay;
 - (iv) Agencies must set the salary eligibility date one year from the date of hire.
- *Section (1)(f) – Promotion:* Upon promotion, an agency normally gives a salary increase to the next higher **rate** in the new salary range. The appointing authority may authorize a greater increase because of retention or recruitment problems, exceptional qualifications of the promoted employees, or other appropriate circumstances. *Promotional increases greater than the next higher rate must take an internal assessment into account.* Agencies must retain documentation and determination of the established rate of pay.
- *Section (1)(g) – Reemployment:*
 - (A)(ii): May authorize a higher **rate** within that range due to retention or recruitment problems, exceptional qualifications of the applicant, or other appropriate circumstances. *A higher rate upon reemployment must take an internal assessment into account.* Agencies must retain documentation and determination of the established rate of pay.
 - (B)(ii): May authorize increases of a greater amount within the range because of retention or recruitment problems, exceptional qualifications of the employee, or other appropriate circumstances. *A greater amount must take an internal assessment into account.* Agencies must retain documentation and determination of the established rate of pay.
 - (C): When an injured worker reemploys to a suitable position (see Statewide HR Policy 50-020-03), set the salary at the closest **rate** within the range of the new position to the salary paid in the job-at-injury. *A higher rate must take an internal*

assessment into account. Agencies must retain documentation and determination of the established rate of pay.

- **Section (1)(i) – Return from Layoff:** When an employee returns from layoff to the classification help prior to the layoff, the employee returns to the same step paid at the time of layoff. Upon return from layoff to a different classification, an employee normally returns to the same salary rate paid at the time of layoff, not exceed the maximum rate in the new salary range. *A higher rate of pay may be established based on an internal assessment. Agencies must retain documentation and determination of the established rate of pay.* Restore the former salary eligibility date and adjust for breaks in service.
- **Section (1)(m)(A)(iv) – Work-out-of-class (WOC):** Agencies that apply WOC differentials exceeding these standards should do so only in exceptional cases, and agencies must document the reasons for the exception. *Any exception must take an internal assessment into account. Agencies must retain documentation and determination of the established rate of pay.*
- **NEW Section (1)(c)(C) – Equity Adjustments:** *An agency appointing authority, or management designee, may submit a written request to the CHRO for an unscheduled salary increase to correct pay inequities, identified by the agency's internal assessment, between employees who perform work of a comparable character.*
 - (i) *Equity adjustments will generally be effective the first of the month following the date the CHRO receives the agency's request.*
 - (ii) *Agencies retain documentation for the established rate of pay for salary adjustments related to or made as a result of an internal assessment or equal-pay analysis.*

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MEMORANDUM

To: Agency Heads and Agency Human Resources Directors

From: Madilyn Zike, Chief Human Resources Officer

Date: Sept. 29, 2017

Subject: Addendum B – Alternative Leave Provisions policy 60-000-20

Emboldened and italicized text reflects revisions and additions to current policy language.

Policy Statement:

As of Oct. 6, 2017, Oregon state government adopts practices and procedures consistent with the Pay Equity law, including some provisions having later effective dates. These include prohibitions against:

- a) *Seeking the salary history of an applicant from the applicant or from a current or former employer of the applicant;*
- b) *Screening job applicants based on current or past compensation;*
- c) *Determining the compensation for a position based on the current or past compensation of an employee who is new to state service;*

Policy Authority: ORS 240.145(3); 240.250; 240.551; ***652.210***

Definitions:

1. *“Compensation” includes wages, salary, bonuses, benefits, fringe benefits and equity-based compensation.*
2. *“Education” means the act or process of acquiring knowledge through systematic instruction, especially through an accredited academic institution.*

3. “*Equal-pay analysis*” means an evaluation process to assess and correct disparities among employees who perform work of comparable character across the Executive Branch. Note: recommendations for the correction of existing compensation disparities are subject to executive leadership review and approval.
4. “*Experience*” means the process of gaining knowledge or skill from doing an activity, particularly by holding a position in a specific professional field or occupation.
5. “*Internal Assessment*” means an evaluation by an agency to determine the appropriate, equitable salary rate for a candidate or an employee relative to the current workforce performing work of a comparable character in terms of education, training and experience or other factor(s) specified in the pay equity law. Factors by which individual employees may be compensated differently for work of a comparable character include: a seniority system; a merit system; workplace location; travel (if necessary and regular for the employee); education; training; experience or; a combination of these factors, if the combination of factors accounts for the entire compensation differential.
6. “*Merit system*” means an orderly progression of an employee’s pay from the established minimum to maximum rate of a salary range based on documented performance. May include salary adjustments resulting from promotions, special merit increases or other personnel actions.
7. “*New Hire*” means the appointment of any person into state service, regardless of status (e.g., temporary, permanent, limited duration, seasonal, etc.). Not included in this definition are reemployments, return from layoff or retiree appointments within two years of retirement.
8. “*Protected Class*” means a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability or age.
9. “*Seniority system*” refers to an employee’s length of state service and how it relates to their salary, benefits and employment rights (e.g., step increases, vacation leave accrual, layoff rights, etc.).
10. “*Training*” means the process by which someone is taught the skills needed for a job. Training may be on-the-job experiences, systematic practice or informal instruction.
11. “*Travel, if necessary and regular*” means an employee required to travel from one place to another as part of their regularly scheduled work assignment; not included in this definition is the regular commute, to and from, an employee’s home and work station.
12. “*Work of comparable character*” means work that requires substantially similar knowledge, skill, effort, responsibility and working conditions in the performance of work, regardless of job description or job title. Note: the state’s job classifications often times provide the best means available for determining which jobs constitute work of a comparable character. At times however, a sub-set of jobs within a classification,

particularly a broad job classification such as Principal Executive/Manager or Operations & Policy Analyst, needs to be identified for proper comparison purposes.

13. “*Working conditions*” includes work environment, hours, time of day, physical surroundings and potential hazards encountered by an employee.
14. “*Workplace locations*” means the geographic location(s) (e.g., city/county) where an employee is assigned to work.

Policy Amendments

Effective Oct. 6, 2017, the Alternative Leave Provisions policy 60-000-20 is amended as follows:

- (1) Agency heads may consider alternative sick leave and vacation leave benefits as part of the employment negotiations to provide additional incentives when recruiting a candidate outside of state government. *Agencies must complete an internal assessment as defined by this policy prior to offering alternative leave. Normally, alternative leave provisions are appropriate for higher level or specialized positions where recruitment difficulties are due to any one of the following conditions:*
 - (a) *a significantly below-market salary range for a specific classification, where changing the salary range on a timely basis is impossible*
 - (b) *a position in a generic classification (e.g., Principal Executive/Manager) being extremely sensitive to market pay fluctuations*
 - (c) *the nature of the assignment (e.g., added expectations or workload for a short to medium period) which makes the position especially unattractive to potential candidates*
 - (d) *the specialized education, training or experience requirements of the position*
- (2) The following alternative leave benefits shall be appropriate substitutes for standard leave provisions:
 - (a) Sick Leave: An advance of up to 240 hours may be granted for immediate use during the first 30 months of employment. The hours may be drawn upon but not increased during this period.
 - (b) Vacation Leave:
 - A) An increased rate of accrual may be granted at the rate of 11.34 hour per month to a maximum of 19.34 hours per month. Subsequent accrual rates may be increased to correspond with the standard leave accrual rates as outlined in State HR Policy 60-000-05, Vacation Leave.
 - B) The hours may be eligible for immediate use upon supervisory approval.

- C) An advanced vacation benefit may be granted, not to exceed the hours accrued in the first year.
 - (i) The hours will be applied against the employee's accrual.
 - (ii) This vacation benefit may be used only once and only during the first year of employment.
 - (iii) This vacation benefit is transferrable to a receiving agency (see (7) below).
 - (iv) Upon separation during the first year of employment, the employee loses any hours advanced and not used or donated.
- (3) ***Any alternative leave granted shall not result in an inequity with current employees performing work of a comparable character.***
- (4) ***Agencies must retain documentation of the internal assessment and determination of the alternative leave granted.***
- (5) An agency must report to the CHRO when granting increased vacation rates. The report must include the employee's name and OR number, classification, working title, salary eligibility date, and prior alternative leave provisions awarded to the employee and a statement of justification. Multiple employees' alternative leave provisions may appear in the same report to the CHRO.
- (6) Exceptions to this policy shall be sent to the Chief Human Resources Officer at the Department of Administrative Services for approval.
- (7) If the employee transfers from the agency granting alternative leave provisions, balances may be transferred consistent with State HR Policy 60-000-05, Vacation Leave and 60-000-01, Sick Leave with Pay.
- (8) Other paid leave benefits are subject to State HR Policy 60-000-01, Special Leaves with Pay.

Questions should be sent to CHRO.Policy@oregon.gov.