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| <b>SUBJECT:</b>  | Pay Practices                | <b>NUMBER:</b>         | 20.005.10 |
| <b>DIVISION:</b> | Chief Human Resources Office | <b>EFFECTIVE DATE:</b> | 6/1/2024  |

**APPROVED:** Signature on file with the Chief Human Resources Office

**POLICY STATEMENT:** This policy establishes standards for the equal and consistent administration of pay. Agency appointing authorities ensure that pay actions taken in their agencies meet the policy standards.

**AUTHORITY:** ORS 240.145; 240.190; 240.235; 240.240; 240.245; 240.250; 240.395; 240.430; 652.220(1); 659A, Equal Pay Law 659A.820, 659A.870; 659A.875; OAR 839-008-0000 thru 839-008-0035

**APPLICABILITY:** Classified unrepresented, management and unclassified “executive” service, unclassified excluded and unclassified unrepresented, limited duration and temporary employees. Applies to represented employees only for the purposes of pay upon initial hire and agency documentation requirements, where not in conflict with an applicable collective bargaining agreement.

**ATTACHMENTS:** Equal Pay Appeal Procedures

**DEFINITIONS:** Also refer to State HR Policy 10.000.01, Definitions

**Base salary:** For the purposes of this policy, a PERS participating member’s base salary rate is the “P” range option of the compensation plan. A PERS non-participating member’s base salary rate is the “A” range option of the compensation plan.

**Compensation:** includes wages, salary, bonuses, benefits, fringe benefits and equity-based compensation. Compensation does not include tips or reimbursement for any actual costs incurred including, but not limited to, relocation reimbursements, mileage, and out-of-pocket expenses.

**Education:** means the act or process of acquiring knowledge through systematic instruction, especially through an accredited academic institution. Education considerations may include, but are not limited to, substantive knowledge acquired through relevant coursework, as well as any completed certificate or degree program.

**Equal-pay analysis:** means an evaluation process to assess and correct wage disparities among employees who perform work of comparable character.

**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. Experience considerations include, but are not limited to, any relevant experience that may be applied to the particular job.

**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 based on a factor or a combination of the factors listed in ORS 652.220(2).

**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. A merit system provides for variations in pay based upon employee performance as measured through job-related criteria, for example, a written performance evaluation plan or policy that measures employee performance using a set numerical or other established rating scale, such as from "unsatisfactory" to "exceeds expectations," and takes employees' ratings into account in determining employee pay rates.

**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.

**Protected Class:** means a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability or age.

**Seniority system:** recognizes and compensates employees based on length of service with the employer and how it relates to their salary, benefits and employment rights (e.g., step increases, vacation leave accrual, layoff rights, etc.).

**Training:** means the process by which someone is taught the skills needed for a job. Training considerations may include, but are not limited to, on-the-job training acquired in current or past positions as well as training acquired through a formal training program.

**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, as defined in OAR 839-008-0010.

**Working conditions:** includes work environment, hours, time of day, physical surroundings and potential hazards encountered by an employee, as those terms defined in OAR 839-008-0010.

**POLICY:**

## (1) Equal Pay

- (a) It is the policy of the state to comply with all aspects of the Equal Pay and Wage and Hour laws, including the prohibitions of:
  - A) Seeking the salary history of an applicant from the applicant or a current or former employer of the applicant before the employer makes an offer of employment to the prospective employee that includes an amount of compensation;
  - B) Determining compensation for a position based on current or past compensation of a prospective employee new to state service;
  - C) Discriminating between employees based on an employee's status as a member of a protected class in the payment of wages or other compensation for work of comparable character.
- (b) The state may pay employees for work of comparable character at different compensation levels if all of the difference in compensation is based on a bona fide factor including:
  - A) A seniority system;
  - B) A merit system;
  - C) Education;
  - D) Training;
  - E) Experience; or
  - F) Any combination of these factors, if the combination of factors amounts for the entire compensation differential.

## (c) Equal Pay Analysis

- (A) The Department of Administrative Services (DAS) shall conduct, at least every three years, an equal pay analysis of the workforce in the executive branch.
- (B) Salary adjustments will be made according to the findings from DAS's equal pay analysis. An employee's pay shall not be reduced as a result of an equal pay analysis.
- (C) Employees may appeal the equal pay analysis findings by following the Equal Pay Appeal Procedures attached to this policy.

## (d) Equal Pay Calculator

- (A) Agencies shall use the equal pay calculator provided by the DAS Chief Human Resources Office (CHRO) to determine salary placement at the time of hire and when performing an internal assessment.
  - (i) Agencies shall use the outcome of the equal pay calculator for:

- Salary placements of all employees upon hire; and
- Salary placements upon promotion, demotion, transfer, or reemployment unless pay practices outlined in this policy are more beneficial to the employee.

(e) Unscheduled Equal Pay Adjustment

- (A) Agencies must receive approval from the CHRO before granting an unscheduled equal pay adjustment to correct pay inequities, identified by the agency's internal assessment, between employees who perform work of a comparable character. An adjustment will not result in the reduction of any employee's pay.
- (i) Agencies shall establish a procedure for employees to request an internal assessment. The procedure shall include a process where employees can submit a written request for an internal assessment based on one or more factors identified in (1)(b).

(f) Employee Request for an Internal Assessment

- (A) An employee may request the agency complete an assessment of the employee's salary relative to the current workforce performing work of a comparable character, based on one or more factors identified in (1)(b).
- (i) The agency will complete an internal assessment and shall use the equal pay calculator in the analysis and follow (1)(e)(A) above.
- (ii) If the unscheduled adjustment is denied, the agency will provide a written reason for the denial.
- (iii) If the unscheduled adjustment is approved, the effective date of the adjustment shall be the date the employee requested the internal assessment.
- (iv) The agency shall issue a notification of the determination within 60 calendar days from the date of the employee's request unless both agency and employee agree in writing to an extension.

(g) Agency Identified Assessment

- (A) The Agency may identify and complete an internal assessment of an employee's salary relative to the current workforce performing work of a comparable character using factors identified in (1)(b).
- (i) Section (1)(f)(A) of this policy will be followed; however, the effective date of the unscheduled adjustment shall be the date the CHRO receives the agency's request for an unscheduled adjustment.

(h) Agencies shall retain documentation for the established rate of pay for all equal pay adjustments.

- (i) Employees may appeal the internal assessment findings in (1)(f) and (1)(g) by following the Equal Pay Appeal Procedures attached to this policy.

**(2) Pay Administration****(a) Classification Changes**

For information on administration of pay on classification change, refer to State HR Policy 30.005.01 Effect of Position Classification Change on Incumbents.

**(b) Demotion (voluntary or involuntary)**

At the time of a demotion, the appointing authority:

- (A) Reduces the employee's pay to the top step of the new classification if the employee's current pay is above the top step of the new classification; or
- (B) Maintains the current pay if the employee's pay is within the range for the new classification unless an internal assessment warrants a higher pay rate within the range. Agencies must retain documentation of the assessment and determination of the established rate of pay. 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.; and
- (C) Maintains the SED unless the employee is at the maximum of the new salary range.

**(c) General Wage Adjustments**

- (A) When the DAS implements a general increase (also referred to as a "cost of living adjustment"), agencies retain an employee at the same step or rate in the salary range. Agencies generally retain an employee's salary eligibility date.
- (B) When DAS implements a compensation plan adjustment with no accompanying general increase, agencies retain an affected employee at the existing salary with no increase unless the employee's current salary rate is below the first step of the new salary range. In this case, the agency places the employee's salary rate at the first step of the new salary range. Employees generally retain their salary eligibility dates.

**(d) Job Rotation**

- (A) For a career enrichment job rotation, employees may receive a 5 percent increase from the employee's current base salary when rotating into a position in a higher salary range. If the 5 percent increase falls below the lowest step in the new classification, place the employee on the first step of the new salary range.
- (B) Agencies must remove any differentials from the employee's base position if the differential is not applicable to the job rotation.
- (C) See State HR Policy 50.015.01 for further information on job rotations for classified unrepresented and management service employees.

**(e) Lump Sum Payments**

- (A) An agency may give a lump sum payment to an employee at the time of hiring, promotion, or lateral transfer in difficult recruitment situations. Agencies must obtain approval from the Chief

Human Resources Office prior to making a lump sum payment.

- (B) 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; or
  - (ii) A position in a generic classification (e.g., Principal Executive Manager) being extremely sensitive to market pay fluctuations; or
  - (iii) The nature of the assignment (e.g., added expectations and workload for a short to medium period) which makes the position especially unattractive to potential candidates; or
  - (iv) The specialized education, training or experience requirements of the position.
- (C) Agencies must retain documentation of the internal assessment and determination of the established lump sum payment. Documentation must include prior written approval of the appointing authority and the Chief Human Resources Office.
- (D) When an agency issues a lump sum payment, the agency combines that lump sum payment with the base pay for the calculation of the overtime rate of pay for the month.

(f) New Hire

- (A) Prior to making a job offer, an agency appointing authority or management designee completes an internal assessment of the candidate relative to the current workforce performing work of a comparable character to determine the appropriate placement in the classification's salary range. The assessment may take into consideration the seniority, merit, 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 current or past compensation of a prospective employee new to state service;
  - (iii) Agencies retain documentation for rationale of established rate of pay;
  - (iv) Agencies set the salary eligibility date one year from the date of hire.

(g) Promotion

- (A) Upon promotion, an agency normally gives a salary increase to the next higher rate in the new salary range. If the next higher rate is less than a 2.5 percent increase, the agency may use the next higher rate of pay in the higher classification's salary range.
- (B) Promotional increases greater than the next higher rate as described in (A) above must consider an internal assessment. Agencies must retain documentation and determination of

the established rate of pay. Set a new salary eligibility date six months from the date of promotion.

- (C) When an employee's pay includes the PERS contribution, agencies consider the employee's current base pay and the increase is to the next higher rate in the new salary range.
- (D) Agencies shall take into consideration the Salary Eligibility Date (SED) when a current state employee promotes to another position. If the employee's SED is within 45 calendar days of the start date of their new position, and the employee is not at top step of the current salary range, the agency will process the promotion as if the employee had already reached their SED.
- (E) Agencies will consider the work-out-of-class pay amount as part of the employee's base wages when the employee has been in a work-out-of-class status for 12 months or longer.

(h) Reemployment

- (A) When a person reemploys within two years of separation, the appointing authority:
  - (i) Conducts an internal assessment prior to determining the appropriate salary rate. The agency must retain documentation and determination of the established rate of pay; and
  - (ii) Establishes the salary eligibility date no earlier than the former salary eligibility date but no later than 12 months following reemployment.
- (B) An employee returning from demotion or downward reclassification to a position with a salary range equal to or lower than the position held prior to demotion or downward reclassification is a reemployment, not a promotion. The appointing authority:
  - (i) Establishes the salary at a rate within the range up to the rate the employee would have earned if the demotion or downward reclassification had not occurred; and
  - (ii) The agency must conduct an internal assessment prior to offering a greater amount. Agencies must retain documentation and determination of the established rate of pay; and
  - (iii) Retains the former salary eligibility date unless the employee is at the maximum step of the range.
- (C) When an injured worker reemploys to a suitable position (see State 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. The agency must conduct an internal assessment prior to offering the higher rate of pay. Agencies must retain documentation and determination of the established rate of pay.

(i) Restoration

Upon restoration under State HR Policy 50.030.01, Restoration of Removed Management Service Employees, an agency returns the employee to the same step the employee would have reached taking into account annual merit increases had the employee not left the previous classification. The agency must conduct an internal assessment prior to offering a higher rate of pay. Agencies must retain documentation and determination of the established rate of pay. Restore the former salary eligibility date.

(j) Return from Layoff

When an employee returns from layoff to the classification held 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 to exceed the maximum rate in the new salary range. The agency must conduct an internal assessment prior to offering a higher rate of pay. The agency must retain documentation and determination of the established rate of pay. Restore the former salary eligibility date and adjust for breaks in service.

(k) Transfer

- (A) An employee's salary rate stays the same upon lateral transfer. If retaining the employee's current salary rate places the employee off-step in the new classification, the employee's salary rate increases at least one full step to a step in the new salary range on the next salary eligibility date (SED).
- (B) The appointing authority authorizes a salary adjustment to a higher rate if circumstances justify a higher rate of pay based on an internal assessment. . The agency must retain documentation and determination of the established rate of pay. Retain the employee's SED unless the employee is at the maximum of the new salary range.
- (C) If the employee's salary rate in the classification held prior to transfer is greater than the maximum rate of the new classification, place the employee at the top step of the new classification.

(l) Trial Service Removal

Upon removing an employee from trial service, restore the employee to the step in the salary range the employee would have reached taking into account annual merit increases had the employee not left the previous classification. The agency must conduct an internal assessment prior to offering a higher rate of pay. Agencies must retain documentation and determination of the established rate of pay. Restore the former salary eligibility date.

(m) Underfill

When an agency selects an employee to fill a position in a higher classification as an underfill, the agency processes the personnel action as a demotion, new hire, promotion, transfer or other appropriate action and compensates the employee based on this policy. The agency reclassifies the employee when the employee meets the minimum qualifications of the position classification. (See State HR Policy 30.005.01, Effect of Position Classification Change on Incumbent for pay information.)