




Approved by: Juan Williams, Commissioner	Policy Number: 12-029 (rev. 09/2021)
Signature: 	Supersedes: 11-037, 06-026, 97-024, 85-022, 85-027, 84-028; 12-029
Application: Executive Branch Agencies and Employees, Human Resource Officers	Effective Date: February 16, 2014
Authority: T.C.A. § 4-3-1703, T.C.A. § 8-30-104, T.C.A. § 8-30-207, T.C.A. § 8-30-209	Rule: Chapter 1120-01 and 1120-04

Preferred Service Compensation

The Commissioner of the Department of Human Resources (Commissioner) (DOHR) prepares and maintains a comprehensive compensation plan and has ultimate authority over statewide compensation policy.

However, when making employment and promotion decisions, an appointing authority is given flexibility in recommending equitable salary rates. When making salary recommendations, an appointing authority shall ensure budget integrity, as well as internal agency equity consistent with equal opportunity principles and applicable laws.

The Department of Human Resources determines salary rates for various human resources actions using the criteria outlined herein, except during periods of budgetary constraints, as determined by the Department of Finance & Administration and the Department of Human Resources. In addition, a budget constraint involving a funding source may, as determined by the Department, affect all similar human resources transactions in the same manner, regardless of the funding source.

Approval Process

When an agency appoints, promotes, transfer, or demote a preferred service employee, a worked referred list, along with written justification, shall be forwarded to the Commissioner for approval. An appointing authority should consider the following when requesting salaries for preferred service employees: internal salary equity; agency budget and financial issues; business needs; recruiting and turnover factors; duties and responsibilities; training and education; related certificates or licensures; total related work experience; knowledge, skills, abilities, and competencies; and other relevant criteria.

Pursuant to Department of Human Resources Rule 1120-04-.03, the minimum rate of pay in the applicable salary range represents the typical entry rate payable to a person on first appointment to a position in a classification. However, the Commissioner may authorize appointments above the range minimum, when experience in recruiting and retaining employees for the classification or prevailing salary market data indicate persons are not available at lower rates or when appointing persons exceptionally qualified for the position, including reappointments.

Requests for exceptions to the parameters outlined below will be reviewed by the Commissioner and/or the Commissioner's designees, with particular attention given to salary equity across the state in the job classification, scope of responsibilities and span of control; total percentage of increase for promotions; existing state or departmental budget restrictions and/or financial management plans; and other relevant criteria as determined by the Commissioner. The Department of Human Resources has final approval based on statewide internal equity. Employees in the preferred service shall be paid at least the minimum salary of the range of the job classification and shall not be paid above the maximum salary of that same range.

If the justification is based on high turnover rates and/or high vacancy rates, an agency may request that DOHR conduct a compensation study to determine if in-range hiring rates are appropriate or if the job classification is assigned to the appropriate salary grade in the pay plan.

Appointments Above the Midpoint of the Salary Range

Each preferred service job classification has a 60% range from the minimum to the maximum rate of the assigned salary range. In accordance with the parameters set forth above, an appointing authority may request a salary up to midpoint of the pay range. Midpoint of the range represents the market salary for a classification. If a salary recommendation exceeds the midpoint, additional justification is required based on knowledge, skills, abilities, and/or competencies critical to the position. In addition, justification should include the employee's relevant education and experience, with particular attention to the salary equity across the job classification.

In-Range Hiring

In-range hiring is designed to serve as an incentive to attract qualified applicants into hard to fill positions. An appointing authority may submit written justification to DOHR for in-range hiring for a job classification. The agency must ensure that all current budgetary obligations are fulfilled according to relevant State policies and procedures. If approved, the starting salary for employees in the job classification will be set at a rate above the minimum salary in the salary range. The in-range amount will be reflected as an additional pay component. See DOHR Policy 12-030, *Positions Approved for In-Range Hiring*.

Promotions

A promotion is the change of an employee to a position in a classification at a higher salary grade. To determine if an employee is moving to a higher salary grade, DOHR shall consider the midpoint of each salary range.

Subject to budgetary limitations, employees who are promoted should receive a minimum of a five percent (5%) increase. With minimal justification, an appointing authority may request a promotional salary increase up to fifteen percent (15%). At minimum, justification should include the employee's relevant education and experience. An employee must be compensated at least the minimum of the pay grade.

DOHR will conduct a salary review when an executive service employee accepts a promotion to a position in the preferred service to ensure statewide equity.

Transfers and Lateral Reclassifications

A transfer is a change from one position in a classification to another position in the same classification. An employee who receives a transfer will not receive a change in salary.

A lateral reclassification is a change from a position in one classification to a position in another classification with the same salary grade. An employee who receives a lateral reclassification will not typically receive additional compensation. However, an appointing authority may request an increase of up to five percent (5%) for an employee who receives a lateral reclassification if the job responsibilities in the new job classification constitute a change in the employee's career path. Justification should include the employee's knowledge, skills, abilities, and/or competencies related to the employee's new job assignment. An employee who receives a job reclassification that results in a change in pay plans may receive a salary adjustment.

Demotions

A demotion is the disciplinary change of an employee to a position in a classification at a lower salary grade for causes related to performance of duties or conduct which affects an employee's ability to successfully fulfill the requirements of the job. To determine if an employee is moving to a lower salary grade, DOHR shall consider the midpoint of each salary range. An appointing authority shall provide DOHR with written justification for all demotions.

In general, an employee who is demoted will receive a salary reduction of at least five percent (5%). If the new pay rate is above the range maximum, the employee's salary shall then be reduced to a rate at or below the new range maximum. In no instance can the reduction be less than the minimum of the new range. An employee who is demoted during a probationary period and returns to the job classification from which he or she was promoted shall receive a salary decrease by an amount equal to the amount received at the time of the promotion.

For the good of the service, an appointing authority may request a job-related exception. When considering whether to approve such request, DOHR considers the following: salary equity issues, the complexity of the position to which the employee would be demoted when compared to the former higher level position held by the employee, the length of time since the employee was demoted (with greater consideration given to a demotion that occurred after the employee served five (5) or more years in their current job classification), and/or other job related issues as determined by the Department.

An employee who is demoted and receives a decrease in pay may be eligible to receive an increase when promoted. However, an employee who received a decrease of less than five percent (5%) in pay and is subsequently promoted to a position with the same salary grade they were demoted from may only receive an increase equal to the percent his or her salary was decreased.

An employee who did not receive a reduction in pay may not receive an increase in pay when promoted until promoted to a job classification with a higher salary range midpoint than the midpoint from which the employee was demoted originally. If an employee is promoted to a job classification with a higher midpoint than the midpoint from which they were originally reduced, an appointing authority may request an increase based on the employee's knowledge, skills, abilities, and/or competencies related to the

employee's new job assignment. The new amount shall not exceed the maximum salary rate of the new job classification.

Voluntary Reductions in Rank

A voluntary reduction in rank is the change of an employee to a position in a classification at a lower salary grade based on an employee's request and the concurrence of the appointing authority. A voluntary reduction in rank is not considered a disciplinary action. The employee must apply and be appointed to the lower classification from a list. To determine if an employee is moving to a lower salary grade, DOHR shall consider the midpoint of each salary range. An appointing authority shall provide DOHR with written justification for all voluntary reductions in rank.

An employee who is reduced in rank during a probationary period and returns to the job classification from which he or she was promoted shall receive a salary decrease by an amount equal to the amount received at the time of the promotion.

An employee who is reduced in rank will receive a salary reduction of at least five percent (5%). If the new pay rate is above the range maximum, the employee's salary shall then be reduced to a rate at or below the new range maximum. In no instance can the reduction be less than the minimum of the new range.

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An employee receiving a voluntary reduction in rank must sign and date an awareness statement. See sample awareness statements below. A copy of the signed awareness statement should be submitted with the electronic personnel action form (ePAF) to the Agency Resource Center (ARC). It is recommended that the original, or a copy, of the signed awareness statement be maintained in the employee's personnel file within the agency's Human Resource Office. Digital signatures are acceptable.

Salary Adjustments

The requesting agency shall submit written justification approved by the requesting agency's appointing authority to DOHR explaining why a salary adjustment for an employee is warranted. DOHR has discretion to approve or deny requests submitted in accordance with this policy for any reason, including, but not limited to, budget considerations. If additional information is required, the requesting agency must provide the information in order for DOHR to issue a determination.

The agency's appointing, and when applicable, the agency chief budget officer or the Finance and Administration Budget Office must approve the request certifying the requesting agency's ability to fund the proposed salary adjustment.

Listed below are three types of salary adjustments. DOHR reserves the right to approve other salary adjustments based on the good of the service, subject to funding approval.

I. Salary Equity Adjustment

Equity adjustments may be granted to lessen the severity of existing salary inequities between employees in the same job classification. In these situations, particular attention will be given to employees within the same work unit and agency. Equity adjustments may also be granted to an employee who is permanently assigned additional responsibilities that are more complex than those typically performed by the employee's current classification. Information detailing both the employee's former job duties and new job duties must be included in the formal request.

The effective date of the approval will be the first day of the defined work week after the request is submitted to the Agency Resource Center. Only under special circumstances, an exception to an effective date may be considered at DOHR discretion. Requests for equity adjustments to apply retroactively are limited to sixty (60) days or four (4) pay periods, whichever is less. An employee may only receive one equity salary adjustment within a twelve (12) month period. Salary equity adjustments may not increase an employee's salary over the range maximum of their current classification.

Equity adjustments of five percent (5%) or less will not receive an extensive review by DOHR. Upon receipt, the request will be sent to the Agency Resource Center (ARC) for review, provided the employee has not received an equity adjustment within the last twelve (12) months.

II. Assignment Differential and Shift Differential Adjustment

A salary adjustment may be given to a preferred service employee who is either temporarily assigned additional responsibilities that are more complex than the employee's current job classification or assigned

to be on an irregular shift (shift differential).¹ An assignment differential up to ten percent (10%) may be requested for an employee who is temporarily assigned additional responsibilities that are more complex than the employee's current job classification. Information detailing both the employee's current job responsibilities and additional job responsibilities must be included in the Assignment Differential request. When the additional responsibilities are no longer being performed or the employee is no longer assigned to the irregular shift, the salary adjustment will be removed. The employee must sign an awareness statement acknowledging that this adjustment is temporary.²

A copy of the signed awareness statement and the Assignment Differential/Shift Differential request should be submitted with the electronic personnel action form (ePAF) to the Agency Resource Center (ARC). It is recommended that the original, or a copy, of the signed awareness statement be maintained in the employee's personnel file within the agency's Human Resource Office. Digital signatures are acceptable.

The effective date of the approval will be the first day of the defined work week after the request is submitted to the Agency Resource Center. Only under special circumstances, an exception to an effective date may be considered at DOHR discretion. Requests for assignment differentials and shift differentials to apply retroactively are limited to sixty (60) days or four (4) pay periods, whichever is less.

Assignment and Shift Differentials should be reviewed by the agency on an annual basis to determine whether continuation is necessary and applicable.

III. College Degree Adjustment

An appointing authority may request a five percent (5%) salary increase when an employee obtains a college degree from an accredited college or university after the date of hire, if the employee's major or minor is related to and/or enhances the employee's current job responsibilities. The appointing authority must submit a request to DOHR including:

1. An official transcript or copy of the diploma showing the employee obtained a degree and the date obtained; and
2. College Degree Increase Request form that includes justification explaining how the degree relates to or enhances the employee's current job classification.

DOHR has discretion whether the degree is related to the employee's current job classification. The effective date of the approval will be the first day of the defined work week after the request is submitted to the ARC.

¹ See "Higher Level Classification Duties Assigned to Preferred Service Employee."

² See Enclosure.

Higher Level Classification Duties Assigned to Preferred Service Employee

Tenn. Code Ann. § 8-30-209 states, “no preferred service employee shall be assigned to perform the majority of duties and responsibilities of a position in a higher level classification than that of the position occupied by the employee, without the approval of the appointing authority. When an employee is so assigned, the duration of such assignment may not exceed ninety (90) days without the approval of the Commissioner (of Human Resources).” The employee’s immediate supervisor, managers in the employee’s chain of command, the agency human resources officer, and the appointing authority are responsible for ensuring proper procedure is followed.

Policy

In order for an employee to be eligible to perform the majority of duties and responsibilities assigned to a position in a higher-level job classification, the employee *must* meet the minimum qualifications of the higher-level job classification.

Approval Justification

When an agency determines there is a business need to assign the duties of a higher-level preferred service position to a preferred service employee, the appointing authority must provide written justification to the Commissioner of DOHR). Justification must include the business reason for the assignment, identification of the position/job classification to which the assigned duties are normally assigned, and if needed, reasons for an overlap, salary exceptions, and/or other information required to complete the request. The ARC reviews the justification and has discretion to approve or deny.

Higher Level Responsibilities Assigned to an Employee While an Employee is on Extended Leave

An appointing authority may appoint a qualified preferred service employee to perform the higher-level classification duties for a defined period of time in which the employee in the higher-level classification is on extended leave. The appointment will be made as an interim appointment overlapped with the incumbent employee in accordance with applicable rules and policies. The employee will receive a salary increase, in accordance with standard promotional policy, which will become effective on the date of the interim appointment.

All interim appointments must be made from the appropriate employment list certifying the employee has met the minimum qualifications of the higher-level job classification. A preferred employee who receives an interim appointment under this policy will maintain all privileges of the preferred service while serving in this short-term appointment.

When a preferred service employee is assigned the duties of a higher-level preferred service position, an agency may request an interim appointment overlap by submitting written justification to the ARC for their review and/or approval/disapproval of the overlap.

A preferred service employee fulfilling the responsibility of another employee who is on extended leave will maintain such higher-level duties until such time as the employee returns from extended leave. Such duties will cease upon the return of the incumbent employee.

Higher Level Responsibilities Assigned to an Employee When a Position is Vacant

If an agency assigns the duties and responsibilities of a position in a higher level classification to a preferred service employee because of a vacancy, the agency must fill the vacant position within sixty (60) days after the position becomes vacant through a regular, interim or emergency appointment. In this instance, if the vacant position is filled with an interim appointment, the preferred service employee may only work a maximum of twelve (12) months from the date of appointment.

Approval of Retroactive Assignments

When an appointing authority determines that a preferred service employee was assigned duties and responsibilities of a position in a higher level job class that exceeded ninety (90) days but was not approved by the Commissioner of DOHR, as required by law, the preferred service employee's supervisor and/or manager must provide written documentation to the appointing authority justifying the retroactive assignment. This documentation, along with the appointing authority's request for the backdated approval, is required as part of the Commissioner's review.

Retroactive assignments violate Tenn. Code Ann. § 8-30-209, which states the Commissioner must approve the work of an employee who is assigned to perform the majority of duties and responsibilities of a position in a higher level classifications if such assignment exceeds ninety (90) days. Therefore, the appointing authority may issue appropriate discipline to supervisory staff involved in allowing the violation. An appointing authority may submit written justification as to why such disciplinary action should not be taken. A copy of the disciplinary action taken or the written justification will be submitted in writing to the Department in conjunction with a retroactive pay request.

Compensation will be at the rate of pay in effect at the time the assigned duties and responsibilities of a position in a higher-level class were performed. The provisions of the policy in place at the time the assigned duties of the higher-level class were performed will be used to determine the length of time of the retroactive payment.

Questions regarding this policy may be directed to the Agency Resource Center (ARC).

Sample Awareness Statements

Voluntary Reduction in Rank with no Salary Reduction

I, [Employee Name], understand that I have accepted a voluntary reduction in rank from [Classification A] to [Classification B] in which my salary was not reduced. I further understand and accept that, because my salary was not reduced as a result of this action, my salary may not be increased when I receive a promotion at any later date until such time as I promote to a classification with a higher salary range midpoint than that of the classification from which I am being reduced in rank.

Employee Name and Date

Voluntary Reduction in Rank with Salary Reduction

I, [Employee Name], understand that I have accepted a voluntary reduction in rank from [Classification A] to [Classification B] in which my salary was reduced by \$XXX/X% month. I further understand and accept that, as a result of this action, my salary may not be increased when I receive a promotion at any later date by greater than \$XXX/X% month until such time as I promote to a classification with a higher salary range midpoint than that of the classification from which I am being reduced in rank.

Employee Name and Date

Assignment Differential/Shift Differential

I, [Employee Name], acknowledge that a request for a temporary salary adjustment in the form of an assignment differential/shift differential is being requested with an effective date of _____ in the dollar amount/percentage of _____.

I further acknowledge this temporary salary adjustment must be removed when I stop performing the duties associated with this assignment differential/am no longer assigned to an irregular shift.

Employee Name and Date

Supervisors, Managers, or Directors
Acknowledgement and Awareness Statement

Employees Assigned Duties of a Higher Level Classification

I, _____, an employee who supervises, manages, or directs employees
(Print - your full name)

in the _____, I hereby certify that I have received
(Print - name of your department or agency)

a copy of the Department of Human Resources' Policy 12-029 that includes the following from Tenn. Code Ann. §8-30-209:

"No preferred service employee shall be assigned to perform the majority of duties and responsibilities of a position in a higher level classification than that of the position occupied by the employee, without the approval of the appointing authority. When an employee is so assigned, the duration of such assignment may not exceed ninety (90) days without the approval of the Commissioner (of Human Resources)."

I understand that without approval as detailed in policy 12-029, I cannot assign a preferred service employee a majority of the duties and responsibilities performed by a position in a higher level job classification than that of the employee's job classification.

If I have questions regarding policy 12-029, I should contact my agency's Human Resources Office or the Agency Resource Center in the Department of Human Resources.

Signature

Date

All supervisors, managers, and directors are required to complete, sign, and submit this acknowledge statement to your agency's Human Resources Office.