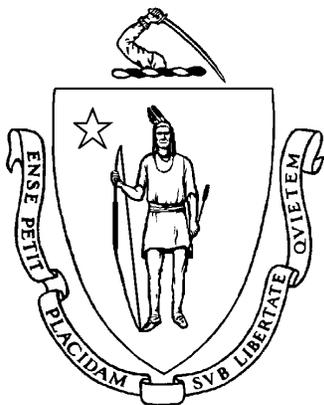


Commonwealth of Massachusetts Human Resources Division



Salary Administration Rules for Managers, Confidential and Unclassified Employees

July 25, 2014

(Formerly the "Gray Book" Rules & Regulations Governing the Classification & Pay Plan of
the Commonwealth)

SALARY ADMINISTRATION RULES FOR MANAGERS, CONFIDENTIAL AND UNCLASSIFIED EMPLOYEES

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1.0 INTRODUCTION & APPLICABILITY

The salary rules contained within are applicable to Executive Branch employees classified as managers pursuant to MGL Chapter 30, § 45 and Chapter 150E, § 1 and Executive Branch employees designated as confidential employees. These rules do not apply to employees of institutions of higher education, employees of constitutional offices, or employees of the county sheriffs. The salary administration rules for managers and confidential employees do not apply to positions covered under any collective bargaining agreement, nor do they apply to any Commonwealth of Massachusetts' employees outside the Executive Branch or to employees of the Judicial or Legislative Branches. These rules do not apply to employees of the offices of the Governor or Lieutenant Governor.

All salary administration rules are authorized by the Personnel Administrator and may be delegated by him/her. The Personnel Administrator has the right to establish and rescind additional rules, modify these rules, as well as rescind any such rules at his/her discretion. These rules shall be applied in conformance with the applicable procedures that are promulgated by the Human Resources Division, hereafter referred to as "HRD".

This document and the salary administration rules contained within replace all previous versions of the Commonwealth of Massachusetts Rules and Regulations Governing Classification and Pay Plan of the Commonwealth, as authorized by Section 45(6) and Section 53 of Chapter 30 of the Massachusetts General Laws.

2.0 REFERENCES

References relevant to this publication include:

- MGL Chapter 30, § 45 - Office and Position Classification Plan and Pay Plan
- MGL Chapter 30, § 46C - Administration of Classification and Pay Plans and the Management of Pay Plans
- MGL Chapter 30, § 53 - Rules and Regulations Providing Informal Procedure for Dispositions of Grievances; Exemptions; Subsequent Procedure; Appeals
- MGL Chapter 30, § 24C - Overtime Pay; Prior Written Approval Required
- MGL Chapter 30, § 46G - Certain Incumbents Shall Not Receive Overtime Compensation
- MGL Chapter 150E, § 1 - Labor Relations; Public Employees; Definitions
Section 5, Chapter 487, Acts of 1984
- MS 001, March 31, 1982 - "New Management Classification Plan and Management Pay Plan"
- MS 014, February 24, 1985 - "Implementation of the Management Salary Collision Provision"
- HRD Memorandum, July 14, 1995 - "Discontinuation of Salary Collision Policy for Managers"
- HRD Memorandum, September 12, 1995 - "Salary Collision Policy"
- HRD Memorandum, March 8, 1999 - "Revision of Salary Collision Policy"
- HRD - **Personnel Administration Policy and Procedures Manual**, April 2000
- HRD - **Rules Governing Paid Leave and Other Benefits (Commonly referred to as the "Red Book")**

3.0 DEFINITIONS

Confidential Employee or "Confidential"

A non-managerial employee whose position has been designated confidential by the Personnel Administrator and who directly assists a manager and acts in a "confidential" capacity to a managerial or other category of employee excluded from coverage under MGL Chapter 150E, § 1. There must be a substantial relationship with the managerial employee so that there is a clear expectation of confidentiality in their routine and recurrent dealings.

Managerial Employee or "Manager"

An employee whose position has been classified an Administrator, Fiscal Officer, Program Manager, or Program Manager Specialist (and paid according to the provisions of MGL Chapter 30, § 45 and § 46C) and determined to be managerial by the Personnel Administrator.

Unclassified Employee or "Unclassified"

An unclassified position is an Executive Branch position that is expressly exempted by statute from MGL Chapter 30 § 45. The incumbent is appointed, not elected, and the position's job duties and compensation may be outlined in the specific statutory language. The position is not subject to Civil Service law, rules and regulations.

4.0 WORK WEEK

The regular hours of work of full-time managers and confidential employees are five tours of duty in any one work week and not less than 37.5 hours (except in the case of part-time employment), as determined by the Personnel Administrator in accordance with MGL Chapter 30, § 45. Rules and regulations regarding hours of employment, tours of duty, lengths of work-days, holidays and overtime are contained in **the Rules Governing Paid Leave and Other Benefits** ("The Red Book").

5.0 DIRECT DEPOSIT

As a condition of employment all managerial, confidential, and unclassified employees will have their salaries directly electronically transferred to an account or accounts selected by the employee. In the extraordinary event that the employee alleges that s/he cannot comply with this requirement due to severe hardship, the employee shall petition in writing to HRD for an exemption. HRD shall review any request for exemption received and notify the employee of its finding. All managerial, confidential, and unclassified employees covered under this publication shall adhere to the policies, procedures, and guidelines of the Commonwealth's current Human Resources/Compensation Management System.

6.0 ANTI-DISCRIMINATION

Agencies shall not discriminate in any way against any employee (regardless of status as a manager, confidential, unclassified employee) on account of race, religion, creed, color, national origin, gender, sexual orientation, age, mental or physical disability, veteran status, or other protected group in the application of any salary administration policies and procedures covered under these rules.

7.0 TIME AND ATTENDANCE RECORDS

All agencies of the Commonwealth subject to the salary administration rules and regulations of HRD shall maintain records of each employee's attendance in compliance with published time and attendance policies and procedures, as well as records of employee personal leave, sick leave and vacation leave usage. Personnel records with respect to employee's time and attendance are available at all times for inspection and/or review by HRD, the State Auditor's Office, and the individual employee involved. Pursuant to MGL Chapter 151, § 15, such records shall be kept for two years, unless otherwise provided by law or unless such records are included in disposal schedules approved by the records conservation board for state records.

8.0 GENERAL SALARY ADMINISTRATION

All agencies subject to these rules shall establish or change any managerial or confidential employee's salary in accordance with the following rules, or as otherwise authorized by the Personnel Administrator. These rules shall govern the setting of salaries resulting from the following actions involving managerial and confidential employees: recruitments, reallocations, promotions, job grade reductions, salary adjustments, and transfers. These rules shall be administered in accordance with the applicable procedures promulgated by the Personnel Administrator.

8.1 Salary Rates in General

Any rates used for the payment of salaries for managerial or confidential employees must be consistent, for managerial employees, with HRD's current Management Salary Schedule, or, for confidential employees, with the appropriate salary schedule for the bargaining unit to which the titles of the confidential positions are allocated. Appointing authorities must insure that employees meet the minimum entrance requirements, as listed on the official class specification for their positions, before approving the establishment of their salaries, even if the salary rates are set at the minimum of the applicable salary ranges. In the case of unclassified employees, any salary rate must be less than or equal to the maximum salary cap maintained by the Personnel Administrator for that particular job title, unless otherwise specified by statute.

8.2 Guidelines Common to Recruitment, Retention, and Promotion

According to Section 616 of Chapter 151 of the Acts and Resolves of 1996, notwithstanding the provisions of MGL Chapter 30, § 46, subsection 7, the Personnel Administrator may determine the rules for the calculation of salary increases for individuals who are initially appointed to management positions classified in accordance with MGL Chapter 30 § 45 and who are promoted to other positions in the management classification plan.

The Personnel Administrator may approve salary setting policies and procedures that:

- A. Provide credit for years of comparable service, beyond the applicable minimum entrance requirements, when establishing a recruitment salary rate, or when establishing a salary rate resulting from a promotion, job grade reduction, position reallocation or transfer. The salary setting procedures shall consider at least the following factors:
 - 1. Supervisor's Salary
 - 2. Peer Salaries
 - 3. Direct Subordinates' Salaries (including non-base pay earnings as such as roll-call pay, stand-by pay, beeper pay, shift differentials, education incentives, uniform allowances, etc.
 - 4. Current Labor Market Data (Salary Surveys)
 - 5. Validated Recruitment / Retention Data
 - 6. The Job Candidate's Current or Last salary (if unemployed)
 - 7. Unique Knowledge or Skill Directly Related to the Job
 - 8. Number of Years of Comparable Experience held by the Job Candidate
 - 9. The difficulty in filling positions due to concrete, documented labor market constraints

- B. Consistent with labor market constraints and recruitment difficulties, on a case-by-case basis, approve up to two (2) years of credit (or salary steps) for every one (1) year of applicable or comparable professional experience.

- C. For job titles requiring professional licensure, allow credit for work experience that is similar to, but not identical to that which would be obtained in the position (e.g. experience as a teacher credited for salary setting as a MCAS Test Administrator).

8.3 Leave Without Pay and Step Dates

An employee's step date will be delayed by the length of time corresponding to the length of time the employee is not on the payroll. However, the employee's step date shall not be delayed because of time off the payroll due to a leave without pay based upon a furlough or other work reduction initiative relating to the mitigation of layoffs.

8.4 Manager Salary Increases

At the beginning of the fiscal year the Human Resources Division shall calculate the average annual salary increase percentage (including step increases) provided to all statewide bargaining unit employees during the previous fiscal year.

The salaries of state managers shall be increased annually as follows:

- 1) Effective the first full pay period of the fiscal year, managers who have successfully completed the ACES planning and progress review, shall receive an increase equal to at least 50% of the average annual bargaining unit salary increase percentage.
- 2) At the conclusion of the annual planning and evaluation cycle, the Human Resources Division will establish a merit pool that combined with the increase in section 1, shall be at least equal to the average annual bargaining unit salary increase percentage. Effective the first full pay period of the fiscal year the merit based salary increase shall be distributed to managers based on their individual performance rating. The Personnel Administrator shall determine the distribution amounts.

9.0 PROMOTION RULES

A promotion is determined by comparing the maximum salary of the employee's old job grade to the maximum salary of the employee's new job grade. If the latter is greater than the former the employee is deemed to have been "promoted." If an employee leaves one Executive Branch agency to assume a position with a higher maximum salary in another such agency, the employee is likewise deemed to have been "promoted".

To calculate a management salary in the case of a promotion, do the following:

- (1) Determine the appropriate increment to be used. For managers who were paid from other than the lowest salary range before the promotion, use the increment from the corresponding range for the job grade to which the manager is being promoted. For example, if, prior to the promotion the manager is being paid from the next to the lowest salary range, use the increment from the next to the lowest salary range in the new (promotional) job grade. For new managers, or managers being promoted from the lowest salary range, use the increment from the lowest salary range of the higher job grade.
- (2) Add the applicable increment from (1) above to the pre-promotional salary.
- (3) Select the lowest salary in **the lowest salary range** of the job grade to which the manager is being promoted that at least equals the sum from (2) above. If the minimum range for the promotional level does not include an amount equal to or higher than that amount from (2) above, select the lowest amount in the next higher salary range that at least equals that amount, or proceeding range until you have found the first amount that at least equals the sum from (2) above.

The salary rate for a confidential employee in the case of a promotion shall be determined in accordance with the provisions of the collective bargaining agreement that applies to the employee's job classification, unless otherwise determined by the Personnel Administrator.

9.1 Comparable Service Recruitment

The Personnel Administrator may approve the recruitment of individuals into managerial or confidential positions at salary rates beyond the minimum rate in the applicable salary range, or, in the case of a promotion, beyond the strict application of the promotional increment, based upon providing credit for comparable experience or service. Individuals cannot be recruited or promoted into confidential or managerial positions at salary rates less than they would be entitled to under the standard promotion rule.

Comparable service recruitment rates require agencies to ensure the candidate has the same amount of such comparable experience that would have been required to obtain the requested recruitment salary rate had such experience been entirely in state service. In addition agencies must ensure that valid evidence exists demonstrating the candidate exceeds the Minimum Entrance Requirements (MER) of the position by the number of years that justifies the recruitment salary rate.

Agencies seeking a comparable service recruitment should refer to the applicable procedures promulgated by HRD.

9.2 Emergency Recruitment

Under extraordinary circumstances agencies may need to request to hire individuals at salary rates outside routine salary setting guidelines. Examples of such include situations that involve ensuring the on-going safe, efficient, and effective delivery of state services to public, agency clients, or state employees.

The Personnel Administrator may approve the salary rates of individuals approved as emergency hires. HRD will only consider a very limited number of requests from each agency on an annual basis.

Agencies seeking an emergency recruitment should refer to the current HRD policies and guidelines with respect to the emergency hiring process guidelines.

9.3 Recruitment Rates for Managers (M-IX through M-XII)

The Personnel Administrator may set the salary for individuals holding positions within job grades M-IX through M-XII at any rate within any salary range of the position's designated M-level.

10.0 JOB GRADE REDUCTION RULES

A job grade reduction is determined by comparing the maximum salary of the job grade of the employee's most previous position to the maximum salary of the job grade of the employee's new position. If the former is greater than the latter then the action is deemed to be a job grade reduction. Such a job grade reduction may be voluntary or involuntary. An involuntary job

grade reduction may be based on performance, but it may also result from other factors, including the lack of funding for or abolition of the previous position.

An employee who receives a job grade reduction in accordance with the first paragraph of this rule shall have his/her salary in the new title (that to which s/he is being placed) determined by choosing the one option among the following that results in the highest salary rate:

(A) the salary in the new job grade (in the same range and at the same step) as he/she was receiving just prior to the job grade reduction;

(B) the salary level in the new job grade that corresponds with the total amount of time served in the new job grade, and any higher job grade. For example, assume that a manager is leaving a position in job grade M-VIII, and is being placed in a position in job grade M-V, having also previously served in positions classified in job grades M-V and M-VII. In this case, you would add the length of the previous service in job grades M-V and M-VII to the length of service in job grade M-VIII to determine the total length of service in job grades M-V or higher. You would then choose the step and range in the new job group that corresponds to the total length of previous service in job grades M-V or higher.

(C) the highest salary rate previously received in the job grade to which s/he is being placed. If the employee previously served in a position in the job grade to which s/he is being placed, the new salary cannot be less than the highest salary that s/he earned previously in this job grade.

The Personnel Administrator may approve a job grade reduction salary that is higher than the result of the strict application of the standard rules regarding job grade reductions of managers and confidential employees. Upon the consent of the manager or confidential employee, the appointing authority may approve a job reduction salary that is lower than the result of the strict application of these rules.

11.0 TRANSFER RULES

A manager or confidential employee transferred from one title to another title of equal job grade shall retain the same salary rate and step date. An employee who is the incumbent of a position that is changed from one title or class to another title or class with the same job grade shall be deemed to be transferred for the purpose of establishing the salary in the new title and s/he will continue in the same step in range, unless a higher step in range is authorized by the Personnel Administrator.

See the **Rules Governing Paid Leave and Other Benefits** (Red Book) for rules concerning the transfer of vacation status, vacation credits, sick leave credits for individuals entering into Executive Branch managerial, confidential or unclassified positions from the Judicial or Legislative Branch, municipal or county government, Constitutional and Independent Offices, Higher Education, or District Attorneys' Offices.

In the event that an employee in an unclassified title or non-management title transfers into a managerial position, the employee's salary shall be determined by the following method, unless otherwise authorized by the Personnel Administrator:

Add the standard managerial promotional increment to the employee's current salary. Find the first salary in range that at least equals that sum. If no salary equals or exceeds that sum, then the manager's salary shall be the maximum salary for the job grade.

12.0 BREAK IN SERVICE

If an individual is reinstated or re-employed within three (3) years following his/her separation from the payroll, he/she shall be at least credited with the number of years of service which shall correspond to his/her rate in the job grade to which his/her position at the time of such separation was allocated; but in no event shall he/she be paid at a rate lower than that which he/she shall have been receiving at the time of such separation. The Personnel Administrator may approve a salary rate that is higher than that which is provided for in the previous sentence and also may approve a salary rate for an individual who is returning to employment in an agency covered by these rules after a separation of more than three (3) years.

13.0 OVERTIME PAY

No compensation shall be paid to any confidential employee or incumbents of positions allocated to M-I through M-IV for overtime without prior written approval of the appointing authority or, in the case of a department, office, commission or board of institution within any executive office, without prior written approval of the secretary of such executive office.

The Personnel Administrator may grant the incumbents of positions allocated to M-V through M-VIII overtime compensation subject to the approval of the Secretary of the Executive Office for Administration and Finance. No person who is an incumbent of a position allocated to job grade M-IX through M-XII shall receive overtime compensation.

Approved overtime for managers and confidential employees will be paid out in accordance the regulations outlined in the Rules Governing **Paid Leave and Other Benefits (Red Book)**.

14.0 ASSIGNMENT BASED SALARY INCREASES

The Personnel Administrator may grant salary increases for employees based upon receipt of new assignments, duties, and responsibilities that do not warrant a job reclassification resulting in an increase in job grade.

Receipt of any assignment based salary increases will not preclude any employee from receipt of Merit Pay-based salary increases or salary increases for a confidential employee based upon the applicable collective bargaining unit agreement, to which his/her job title is allocated.

15.0 ACTING PAY

The Personnel Administrator may grant agency requests to compensate employees as "Acting" in a particular managerial or confidential position or function, pending agency selection and/or

appointment of a full-time incumbent. Agencies seeking approval of an appointment and compensation of an employee or manager in an "acting" capacity shall follow the applicable procedures promulgated by HRD and shall not assign anyone to such an "acting" status without the prior approval of the Personnel Administrator.

16.0 SALARY COLLISIONS

Salary collisions are situations in which a manager's salary is significantly lower than that of a non-management subordinate, and meets certain eligibility criteria established by HRD. Salary collision procedures only apply between managers and non-managers and not between supervising and subordinate managers or between non-management supervisory positions and non-management subordinates. Note that salary collisions may be avoided for new managers through appropriate use of the management recruitment process. Confidential and unclassified employees are not eligible for consideration for salary collision adjustments. Salary collision adjustments may not be implemented without the prior recommendation of the appointing authority and the approval of the Personnel Administrator. Managers who receive such salary adjustments are not eligible for salary increases relating to Merit Pay.

16.1 Salary Collision Criteria

In order for a salary collision to exist a manager's salary must be lower than that of his/her non-management subordinate(s) and meet all of the following criteria:

- A. The manager's title must require possession of the same professional/technical skills and/or licensure/certification required of the non-management subordinate. (e.g., registered nurse, registered engineer, etc.). Possession of such skills/licensure by the manager, if it is not necessarily a requirement of the job as contained in the Management Questionnaire (MQ), will not be sufficient for approval.
- B. The manager must be required to provide technical, as well as administrative supervision to his/her non-management subordinate.
- C. The management position must be one for which recruitment into the management position would be difficult without the salary collision adjustment.
- D. All jobs involved must be properly classified.
- E. The maximum salary for the managerial subordinate's job grade must exceed the maximum of the salary of the manager's evaluated job grade.

16.2 Merit Pay for Managers in Salary Collision

Managers in salary collision must continue to be evaluated through the Management Performance Review System (MPRS) process. If the manager can be brought out of salary collision after implementation of Merit Pay, the agency should notify HRD and should do so; otherwise the manager should only receive the adjusted salary collision pay.

17.0 SALARY RATES FOR CONFIDENTIAL EMPLOYEES

The Personnel Administrator may apply the economic provisions of any collective bargaining agreement to confidential employees whose title is allocated to the respective bargaining unit. Class recruitment rates for non-managerial employees shall apply equally to confidential and bargaining union employees.

18.0 SALARY RATES FOR CRITICAL MANAGERIAL POSITIONS REQUIRING SPECIALIZED QUALIFICATIONS IN SHORT SUPPLY IN THE LABOR MARKET

The Personnel Administrator may grant salaries, based upon current market rates, for classified managers whose positions are essential to their agencies' missions and who possess qualifications in short supply in the labor market. An agency seeking such a salary exception must demonstrate substantial difficulties in recruiting or retaining such a manager at by employing the salary setting rules stated herein. The use of any special rate in accordance with this rule would not impact the classification of the affected position.

19.0 APPROVAL OF SALARY RATES FOR NEW OR CHANGING FIELDS

The Personnel Administrator may establish and approve salary rates at levels up-to and including the maximum salary range for a job grade to provide agencies the ability to attract job candidates with unique skill sets, knowledge, and competencies needed to fill jobs in fields that are either emerging or substantially changing due to advances in technology, science, social policy or other factors.

20.0 BENEFITS FOR MANAGERS, CONFIDENTIAL & UNCLASSIFIED EMPLOYEES

Rules governing leave and other benefits for managers, confidentials, and unclassified employees are contained within the **Rules Governing Paid Leave and Other Benefits (Red Book)** include but are not limited to: vacation leave, personal leave, sick leave, family leave, military leave, court leave, travel expenses and meal reimbursement, hours of employment and over-time, holidays, charges to state personnel, tuition remission, adoption assistance, etc.

21.0 MERIT PAY PROGRAM FOR MANAGERS

The Personnel Administrator shall establish and annually review a Merit Pay Program for Managers. Pay increases for managers through this program should be based on performance and administered in conjunction with and the applicable procedures promulgated by HRD relating to the administration of the Management Performance Review System (MPRS).

22.0 SALARY ADJUSTMENTS FOR MANAGERS & CONFIDENTIAL EMPLOYEES

The Personnel Administrator may approve salary adjustments outside of the guidelines of the Management Performance Review System (MPRS) for any manager who is eligible to receive a Merit Pay salary increase based on the MPRS program.

The Personnel Administrator also has the discretion to authorize and approve salary increases outside of the guidelines of the Employee Performance Review (EPRS) system for any confidential employee who is eligible to receive a salary increase based on the EPRS program.

23.0 APPEALS

A manager or confidential employee may file an appeal with the Personnel Administrator relating to hours of employment, vacations, sick leave or other forms of leaves of absence, overtime, and other matters relating to conditions of employment.

Such appeals must be filed in writing within thirty (30) days on which the alleged act or omission giving rise to the appeal occurred. The Personnel Administrator shall conduct an investigation and/or hearing to ascertain the facts surrounding the appeal and render a decision that shall be binding upon all parties. Such decision shall be issued within thirty (30) days of receipt of the appeal.