

**19-706 ESTABLISHMENT OF UNCLASSIFIED POSITIONS AND THE UNCLASSIFIED EMPLOYEE PAY PLAN**

**SCOPE AND PURPOSE**

This Regulation governs the establishment, maintenance, and administration of the Unclassified Pay Plan applicable to all unclassified positions, except athletics coaches and unclassified employees in the athletics department of post secondary educational institutions as defined in § 59-107-10 of the South Carolina Code of Laws except the technical education colleges.

**19-706.01 CATEGORIES OF UNCLASSIFIED POSITIONS**

- A. An unclassified position is a full-time equivalent (FTE) position that has been assigned to an unclassified State title and falls under one of the following categories: 1) agency head covered by the Agency Head Salary Commission, 2) Executive Compensation System, 3) academic personnel, or 4) unclassified other.
- B. The compensation of agency heads covered by the Agency Head Salary Commission is addressed in Section 19-706.04 A.
- C. The compensation of employees in positions covered by the Executive Compensation System is governed by Section 19-706.04 B.
- D. Academic personnel are defined by § 8-11-220 of the South Carolina Code of Laws as “presidents, provosts, vice presidents, deans, teaching and research staffs, and others of academic rank employed by the State educational institutions of higher learning, or medical institutions of education and research.” The compensation of employees in positions in the category of academic personnel is governed by Section 19-706.04 C. Presidents who are covered by the Agency Head Salary Commission are not subject to the Regulations pertaining to academic personnel.
- E. Positions in the category of Unclassified Other include:
  - 1. Agency heads not covered by the Agency Head Salary Commission;
  - 2. Designated staff of the Governor’s office;
  - 3. Teachers;
  - 4. Such other personnel employed by the institutions of higher learning and/or medical institutions of education and research as are recommended by the respective governing bodies and approved by the Budget and Control Board;
  - 5. Other positions as the General Assembly may elect to exempt.

## State Human Resources Regulations

The compensation of employees in positions in the category of Unclassified Other is governed by Section 19-706.04 D.

### **19-706.02 STATEMENTS OF POLICY**

- A. The Budget and Control Board designates the State Human Resources Director to administer all Budget and Control Board policies and procedures relating to the unclassified State titles and compensation of employees in unclassified positions.
- B. The Office of Human Resources shall develop and maintain a position numbering system that will identify each unclassified position.
- C. In an agency whose agency head is reviewed by the Agency Head Salary Commission, no employee may receive a salary in excess of 95% of the midpoint of the agency head's salary range or the agency head's actual salary, whichever is greater, except on approval of the Budget and Control Board. Higher education technical colleges, colleges, and universities shall be exempt from this requirement.
- D. All pay actions which require approval from OHR must receive such approval prior to an agency effecting the actions.
- E. The South Carolina Constitution prohibits an agency from granting extra compensation, fee, or allowance to any public officer, agent, servant, or contractor after services rendered, or contract made, nor authorize payment or part payment of any claim under any contract not authorized by law.
- F. All employees in unclassified positions with State salary ranges shall be paid within their respective range and the provisions of Section 19-706.
- G. An employee who has returned from an authorized leave of absence without pay shall be paid at the same rate being paid at the time leave was granted, except that the employee may be granted any legislative increases made during the employee's absence. In determining the amount of adjustment that the employee may be granted, the same implementation instructions that applied to all other employees in the same unclassified category shall be followed.
- H. A position may move between the classified and unclassified systems provided the agency does not exceed its respective number of classified and unclassified authorized FTEs. (*Refer to Section 19-704.08.*)
- I. When an employee moves from a classified position to an unclassified position, the employee's pay will be governed by the unclassified pay plan.
- J. The Office of Human Resources is authorized to delegate to agencies by written agreement the establishment of unclassified positions within authorized limits and changes to the unclassified State title. Agencies with a delegation agreement shall

## State Human Resources Regulations

comply with State and federal laws and regulations, Budget and Control Board policies and guidelines, and the provisions contained in delegation agreement. The delegation agreement shall constitute a contractual relationship between OHR and the requesting agency and may be terminated or altered at the discretion of OHR.

- K. An agency's requests for or implementation of an increase in salary shall be requested or implemented when sufficient funds are available. The State Human Resources Director may require submission of appropriate documentation attesting to the availability of funding.
- L. An agency shall maintain documentation appropriate for administration of these Regulations.
- M. Prior to implementation, agencies shall develop any written policies described in these Regulations to govern the administration of salary increases and decreases.
- N. The State Human Resources Director shall have the authority to make exceptions to Section 19-706.

### **19-706.03 ADMINISTRATION OF THE PAY PLAN**

- A. The Office of Human Resources will coordinate with agencies to develop, implement, and maintain unclassified State titles which appropriately identify and distinguish between unclassified positions.
- B. An unclassified position should be authorized by the General Assembly and established by OHR. When establishing an unclassified position, OHR assigns a position number, unclassified State title and code, slot number, and State salary range, if applicable.
- C. The Office of Human Resources has the authority to designate a classified position as unclassified for purposes of initially placing positions in the Executive Compensation System.
- D. The Office of Human Resources may, as appropriate, conduct studies of unclassified positions with State salary ranges for the purpose of making recommendations that will maintain a competitive pay plan.
- E. The State Human Resources Director is authorized to approve pay actions outside the provisions of Section 19-706 for employees other than agency heads if circumstances warrant such approval.

### **19-706.04 HIRING SALARIES, SALARY INCREASES, AND SALARY DECREASES FOR EMPLOYEES IN UNCLASSIFIED POSITIONS**

- A. Agency Heads Covered by the Agency Head Salary Commission

## State Human Resources Regulations

The compensation of agency heads covered by the Agency Head Salary Commission is governed by the Commission and the Budget and Control Board.

### B. Executive Compensation System

#### 1. Hiring Salaries for Employees in the Executive Compensation System

- a. Hiring at the Minimum - An employee must be paid at least the minimum of the State salary range for the position.
- b. Hiring Above the Minimum – An employee may be hired at a salary up to the midpoint of the State salary range for the position if circumstances warrant such approval. The Budget and Control Board may authorize payment of a salary above the midpoint of the State salary range for the position based on written justification submitted by the agency.
- c. Entry into the Executive Compensation System - Upon movement into the new position, the employee is eligible for up to a 15% salary increase or up to the midpoint of the State salary range for the new position, whichever is greater. Such increase shall not place the employee's salary above the maximum of the new State salary range. The Budget and Control Board may authorize exceptions based on written justification submitted by the agency.

#### 2. Salary Increases for Employees in the Executive Compensation System

- a. Written justification for awarding salary increases shall be maintained by the agency.
- b. In-Range Increases
  - (1) Legislative Increase – An annual pay increase shall be provided to the Executive Compensation System employees in accordance with the provisions of the annual Appropriation Act.
  - (2) Performance Increase - An agency may increase an employee's salary based upon performance in accordance with § 8-1-160 of the South Carolina Code of Laws. Such an increase shall be determined by the agency. A performance increase shall not place an employee's salary above the maximum of the State salary range.
- c. Salary Increases Upon Promotion
  - (1) Upon promotion, an employee's salary must be at least the minimum of the State salary range for the position to which promoted.
  - (2) Upon promotion, an employee's salary may be increased up to 15% or up to

## State Human Resources Regulations

the midpoint of the State salary range for the position to which promoted, whichever is greater. Such increase shall not place the employee's salary above the maximum of the new State salary range. The Budget and Control Board may authorize exceptions based on written justification submitted by the agency.

### d. Salary Increases Upon Upward Reevaluation

- (1) When an occupied position is reevaluated and is assigned a higher State salary range, the employee's salary must be at least the minimum of the new State salary range.
- (2) Upon an upward reevaluation, an employee's salary may be increased up to 15% or up to the midpoint of the State salary range, whichever is greater. Such increase shall not place the employee's salary above the maximum of the new State salary range.

### 3. Salary Decreases for Employees in the Executive Compensation System

- a. Written justification for effecting any salary decrease shall be maintained by the agency.
- b. Performance Decrease – An agency may decrease an employee's salary based upon performance in accordance with § 8-1-160 of the South Carolina Code of Laws. Performance decreases may not place an employee's salary below the minimum of the State salary range. Performance decreases must be based on the results of an Employee Performance Management System (EPMS) evaluation, and the salary decrease shall be determined by the agency.
- c. Salary Decreases Upon Demotion or Downward Reevaluation
  - (1) Voluntary Reason - An employee, who is voluntarily demoted to a position with a lower State salary range or who voluntarily has his position reevaluated to a lower State salary range, may at the discretion of the agency head or his designee, be paid at any salary equal to or below the current salary. However, the salary must be within the lower State salary range, and the employee must sign a written statement indicating agreement to the salary decrease. The signed document with justification should be maintained by the agency.
  - (2) Disciplinary or Performance Reason - An employee who, as the result of a disciplinary action or an unsatisfactory rating on an EPMS evaluation, has his position reevaluated to a lower State salary range or is demoted to a position with a lower State salary range, may, at the discretion of the agency head, be paid at any salary within the lower State salary range provided the salary is equal to or below the current salary, but must be within the lower State salary range.

## State Human Resources Regulations

- (4) Involuntary or Non-Disciplinary Reason - When a covered employee is demoted due to involuntary or non-disciplinary reasons or when an occupied position is reevaluated to a lower State salary range for these reasons, the employee's salary shall not be reduced for a period of one year from the date of the demotion or downward reevaluation unless an exception is approved by the Budget and Control Board. After the expiration of the one-year period, with the approval of the agency head or his designee, the employee's salary may be reduced no more than 15% or to the midpoint of the State salary range, whichever is lower. An employee exempt from the State Employee Grievance Procedure Act, who is involuntarily demoted or whose position is downwardly reevaluated may have his salary reduced no more than 15% or to the midpoint of the pay State salary range, whichever is lower, immediately following the demotion or downward reevaluation.

If the employee's salary is allowed to remain above the maximum of the lower State salary range for the position, the employee shall not be eligible for pay increases unless:

- (a) Subsequent pay adjustments establish the maximum of the State salary range above the employee's rate of pay; or
- (b) The employee is subsequently promoted or his position is reevaluated and his current salary is below the maximum of the State salary range for the position.

### C. Academic Personnel

#### 1. Hiring Salaries for Employees in the Category of Academic Personnel

Agencies may determine hiring salaries for unclassified employees in the category of academic personnel. Agencies should consider comparable positions and market data for the occupational area when setting initial hiring salaries for employees in this category.

#### 2. Salary Increases for Employees in the Category of Academic Personnel

- a. Agencies shall develop written policies to govern the administration of salary increases for academic personnel in unclassified positions. Written justification for awarding salary increases shall be maintained by the agency.
- b. A legislative increase shall be provided to academic personnel in accordance with the provisions of the annual Appropriation Act.
- c. Agencies may award a salary increase of up to 15% for any of the reasons listed below. For an increase of more than 15%, the agency must submit written justification to OHR for approval.

## State Human Resources Regulations

- (1) The acquisition of additional skills or knowledge directly related to the job;
  - (2) The assignment of additional job duties or responsibilities;
  - (3) The retention of an employee who has a bona fide job offer from an employer, either within or outside of State government. For an increase of more than 15%, the employee must have a bona fide job offer outside of State government and the request must be submitted to OHR for approval. An employee shall receive no more than one retention increase in a one-year period;
  - (4) The need to address internal equity or equity with the external market;
  - (5) Promotion to a higher level position - The agency shall determine whether the new position has a higher level of job duties or responsibilities than the former position; or
  - (6) Assignment of higher level job duties or responsibilities as defined by the agency which results in a change in unclassified State title.
- d. As provided in an agency's faculty promotion policy, the agency may develop policies for rank promotions for faculty. Such increases shall be determined by the agency.
  - e. A performance increase may be awarded to an employee in accordance with § 8-1-160 of the South Carolina Code of Laws. Such increases shall be determined by the agency.
3. Demotions and Salary Decreases for Employees in the Category of Academic Personnel

Agencies shall develop written policies to govern the administration of salary decreases for academic personnel. Written justification for effecting any salary decrease shall be maintained by the agency.

- a. Performance or Disciplinary Decrease – An agency may decrease an employee's salary based upon performance or disciplinary reasons. Performance decreases should be based on the results of a performance evaluation. Any salary decrease shall be determined by the agency.
- b. Removal of Additional Job Duties or Responsibilities - Should the additional job duties or responsibilities which justified an additional job duties or responsibilities increase be removed from an employee within six months of the date that the salary increase was awarded, the salary may be reduced by up to the amount of additional job duties or responsibilities increase. For academic personnel covered

## State Human Resources Regulations

by the State Employee Grievance Procedure Act, this decrease in salary is not grievable or appealable if the removal of the duties and subsequent salary decrease occur within six months of the date the salary increase was awarded. (Refer to Section 19-718.)

### c. Demotion and Assignment of Lower Level Responsibilities

(1) Voluntary Reason - An employee, who is voluntarily demoted or is voluntarily assigned to lower level responsibilities within his current position, may be paid at a rate which is agreed upon by the employee and the agency provided the employee signs a written statement indicating agreement to the salary decrease. The signed document should be maintained by the agency.

### (2) Involuntary Reason –

#### (a) Academic Personnel Covered by the State Employee Grievance Procedure Act

- i. Disciplinary or Performance Reason - An employee who, as the result of a disciplinary action or unsatisfactory rating on a performance evaluation, is demoted or assigned lower level responsibilities, shall not have his salary reduced by more than 15%. For a decrease of more than 15%, the agency must submit written justification to OHR for approval.
- ii. An employee, who is involuntarily demoted or assigned lower level responsibilities, shall not have his salary reduced for a period of one year from the date of the action unless an exception is approved by the Budget and Control Board. After the expiration of the one year period, with the approval of the agency head, the employee's salary may not be reduced by more than 15%. For a decrease of more than 15%, the agency must submit written justification to OHR for approval.

#### (b) Academic Personnel Exempt from the State Employee Grievance Procedure Act

An employee, who is involuntarily demoted or assigned lower level responsibilities, shall not have his salary reduced by more than 15%. For a decrease of more than 15%, the agency must submit written justification to OHR for approval.

### 4. Administrative Salary Adjustment

Institutions of higher learning may award administrative salary adjustments to unclassified academic personnel during periods of time when they are assigned additional administrative responsibilities related to their role as Dean, Assistant Dean,

## State Human Resources Regulations

Associate Dean, or Department Chairman. Administrative salary adjustments are not considered part of the employee's base salary. An agency may award an administrative salary adjustment of up to 15%. For an increase of more than 15% or for an increase related to administrative responsibilities other than those listed above, the agency must submit written justification to OHR for approval.

5. Summer Employment for Academic Personnel of State Institutions of Higher Learning
  - a. Summer employment is not considered dual employment, which covers additional compensation earned during an employee's base period of employment. Therefore, summer employment may occur over any specified period of time between May and September of a calendar year.
  - b. All institutions of higher learning should develop policies and procedures for governing academic personnel who are teaching summer sessions outside of their base period of employment. Institutions of higher learning should consider comparable positions and market data for the occupational area when determining compensation for summer teaching. The rate of pay should be comparable to the preceding academic year and may not exceed 40% of the employee's annualized salary. Written justification for any exceptions should be submitted to OHR for approval.
  - c. Academic personnel shall be compensated at the same rate of pay as the immediately preceding academic year for sponsored research or other activities performed during the summer months (between academic years) which are not related to a regular summer session.
  - d. Institutions of higher learning shall maintain records of all agreements pertaining to summer employment.

### D. Unclassified Other

1. Unclassified Other (Agency Heads Not Covered By the Agency Head Salary Commission)

Agency heads not covered by the Agency Head Salary Commission shall have their salary established in accordance with relevant legislation.

2. Unclassified Other (Teachers)

Agencies shall pay all teachers the appropriate salary provided by the salary schedule of the school district in which the agency is located. Each year, agencies with certified teachers should submit their salary schedule for teachers to OHR for information.

## State Human Resources Regulations

### 3. Unclassified Other (Non-Teachers)

#### a. Hiring Salaries for Employees in the Category of Unclassified Other (Non-Teachers)

Agencies may determine hiring salaries for employees in the category of unclassified other (non-teachers). Agencies should consider comparable positions and market data for the occupational area when setting hiring salaries for employees in these unclassified positions.

#### b. Salary Increases for Employees in the Category of Unclassified Other (Non-Teachers)

(1) Written justification for awarding salary increases shall be maintained by the agency.

(2) A legislative increase shall be provided to employees in the category of unclassified other (non-teachers) in accordance with the provisions of the annual Appropriation Act.

(3) Agencies may award a salary increase of up to 15% for any of the reasons listed below. For an increase of more than 15%, the agency must submit written justification to OHR for approval.

(a) The acquisition of additional skills or knowledge directly related to the job;

(b) The assignment of additional job duties or responsibilities;

(c) The retention of an employee who has a bona fide job offer from an employer, either within or outside of State government. For an increase of more than 15%, the employee must have a bona fide job offer outside of State government and the request must be submitted to OHR for approval. An employee shall receive no more than one retention increase in a one-year period;

(d) The need to address internal equity or equity with the external market;

(e) Promotion to a higher level position. The agency shall determine whether the new position has a higher level of job duties or responsibilities than the former position; or

(f) Assignment of higher level job duties or responsibilities which results in a change in unclassified State title.

## State Human Resources Regulations

- (4) A performance increase may be awarded to an employee in accordance with § 8-1-160 of the South Carolina Code of Laws. Such increases shall be determined by the agency.
- c. Demotions and Salary Decreases for Employees in the Category of Unclassified Other (Non-Teachers)

Agencies shall develop written policies to govern the administration of salary decreases for employees in the category of unclassified other (non-teachers). Written justification for effecting any salary decrease shall be maintained by the agency.

- (1) Performance Decrease – An agency may decrease an employee’s salary based upon performance in accordance with § 8-1-160 of the South Carolina Code of Laws. Performance decreases must be based on the results of an Employee Performance Management System (EPMS) evaluation, and the salary decrease shall be determined by the agency.
- (2) Removal of Additional Job Duties or Responsibilities - Should the additional job duties or responsibilities which justified an additional job duties or responsibilities increase be removed from an employee within six months of the date that the salary increase was awarded or prior to the end of the trial period, the salary may be reduced by up to the amount of additional job duties or responsibilities increase. Such decrease in salary is not grievable or appealable under the State Employee Grievance Procedure Act.
- (3) Demotion or Assignment of Lower Level Responsibilities
- (a) Voluntary Reason - An employee, who is demoted or is voluntarily assigned to lower level responsibilities within his current position, may be paid at a rate which is agreed upon by the employee and the agency provided the employee signs a written statement indicating agreement to the salary decrease. The signed document should be maintained by the agency.
- (b) Involuntary Reason –
- i. Disciplinary or Performance Reason - An employee who, as the result of a disciplinary action or unsatisfactory rating on an EPMS evaluation, is demoted or assigned lower level responsibilities, shall not have his salary reduced by more than 15%. For a decrease of more than 15%, the agency must submit written justification to OHR for approval.
- ii. A covered employee, who is involuntarily demoted or assigned lower level responsibilities, shall not have his salary reduced for a period of

## State Human Resources Regulations

one year from the date of the action unless an exception is approved by the Budget and Control Board. After the expiration of the one-year period, with the approval of the agency head or his designee, the employee's salary may not be reduced by more than 15%. An employee exempt from the State Employee Grievance Procedure Act, who is demoted or involuntarily assigned lower level responsibilities, shall not have his salary reduced by more than 15% immediately following the demotion or assignment of lower level responsibilities.

For a decrease of more than 15%, the agency must submit written justification to OHR for approval.

### **19-706.05 COMPENSATION NOT INCLUDED IN BASE SALARY**

- A. Temporary Salary Adjustment – The Office of Human Resources is authorized to approve a temporary salary adjustment for an employee in an FTE position if circumstances warrant such approval. The temporary salary adjustment must be removed when the circumstances that warranted such an increase are no longer present.
- B. Bonuses – The General Assembly has authorized various programs through which agencies may award bonuses to employees. Agencies shall comply with guidelines established by the Budget and Control Board in the administration of bonus programs.
- C. Grant Salary Adjustment – The Office of Human Resources is authorized to approve a grant salary adjustment for an employee in an FTE position if circumstances warrant such approval. The grant salary adjustment must be removed when the circumstances that warranted such an increase are no longer present.

### **19-706.06 EFFECTIVE DATES OF SALARY CHANGES**

- A. The effective date of all salary changes provided in Sections 19-706.04 and 19-706.05 shall be no earlier than the date the action is approved by the appropriate authority.
- B. Retroactivity  

Agencies must comply with constitutional provisions regarding retroactivity.
- C. Concurrent Increases  

When general increases and other salary increases are awarded on the same date, the general increase shall be applied prior to any other salary increases.
- D. Budgetary Limitations

In the case of budgetary limitations, OHR may approve exceptions to those salary increases that require approval by OHR regarding the effective date of salary increases

## State Human Resources Regulations

based on written justification provided by the agency. Agencies should document internally the need to make exceptions regarding the effective date of salary increases for those increases for which they have approval authority.