

OPM 01-52

DATE: July 18, 2001

TO: All Appointing Authorities

FROM: Oscar B. Jackson, Jr., Administrator and
Cabinet Secretary of Human Resources

RE: **Proposed Pay for Performance Emergency Rules**

I have scheduled a public hearing for comments on proposed emergency amendments to the Merit System of Personnel Administration Rules. The proposed amendments are necessary to implement Section 3 of Enrolled House Bill 1768 (2001).

I hope you or your representative(s) will attend the public hearing—

1:30 p.m., Friday, July 27, 2001
Concourse Theater
Room C250, Sequoyah/Will Rogers Concourse
Oklahoma City

If you would like to make comments on the proposed amendments but are unable to attend the public hearing, I will consider written comments received in the Office of Personnel Management by 12 noon, Monday, July 30, 2001. Written comments on rule proposals may be mailed to Oscar B. Jackson, Jr., Attention: Kimberlee Williams, Office of Personnel Management, 2101 North Lincoln Boulevard, Room G-80, Oklahoma City, OK 73105, or may be faxed to (405) 524-6942, or may be emailed to kimberlee.williams@opm.state.ok.us.

Copies of the proposals are attached.

1 **530:10-7-1. Purpose and general provisions**

2 (a) The purpose of the rules in this Part is to *establish pay regulations, regulations for*
3 *performance pay increases, rates for pay differentials, on-call pay, and other types of pay*
4 *incentives and salary adjustments* [74:840-1.6A].

5 (b) Pay raises are prohibited unless specifically authorized by legislation or the Merit
6 Rules. A cost-of-living raise or any other type of raise that would be given to state
7 employees on an across-the-board basis is prohibited unless specifically authorized by the
8 Legislature.

9 (c) The rules in this subchapter provide for market adjustments, increases upon intra -
10 agency lateral transfer, skill -based adjustments, equity-based adjustments, career
11 progression increases, ~~and~~ salary adjustments upon completion of the initial probationary
12 period or trial period, and performance pay increases. Appointing Authorities may use
13 these pay mechanisms only if funds are available in the agency's budget for the current
14 and subsequent fiscal ~~years~~ year without the need for additional funding to increase the
15 personal services budget of the agency. Upon certification from the Director of State
16 Finance that an Appointing Authority has exceeded the agency's budget for the current or
17 subsequent fiscal year due to the use of the pay movement mechanisms listed in this
18 subsection, the Administrator may withdraw authorization for the agency to use the
19 following pay movement mechanisms during the next appropriations cycle: market
20 adjustments, increases upon intra -agency lateral transfer, equity-based adjustments, and
21 career progression increases. [74:840-2.17]

22 **530:10-7-1.1. Salary administration plan**

23 An Appointing Authority shall adopt a salary administration plan for the agency's
24 classified positions and submit the plan for the approval of the Administrator. The salary
25 administration plan shall establish hiring ranges for all positions within the agency's
26 classification plan. Components of a salary administration plan include but are not
27 limited to conditions under which the Appointing Authority may establish a hiring rate
28 above the midpoint of the pay range, skill-based pay programs, and other pay movement
29 mechanisms authorized by 74:840-2.17 except pay for performance. The salary
30 administration plan may be amended by the Appointing Authority at any time and
31 submitted to the Administrator for approval of the amended plan.

32 **530:10-7-1.2. Funding and reporting requirements**

33 (a) Use of pay movement mechanisms involving market adjustments, lateral transfers,
34 skill-based pay adjustments, equity-based adjustments, career progression increases,
35 probationary increases, ~~and~~ increases upon the completion of trial periods, and
36 performance pay increases are limited to those possible using funds available in the
37 agency's budget for the current and subsequent fiscal year without the need for additional
38 funding. [74:840-2.17]

39 ~~(b) An Appointing Authority may, at his or her discretion, use any of the following pay~~
40 ~~movement mechanisms for positions in the unclassified service: skill-based pay~~
41 ~~adjustments, equity-based adjustments, and adjustments upon intra-agency lateral~~
42 ~~transfer. Use of these pay movement mechanisms for positions in the unclassified service~~
43 ~~is not subject to the Merit Rules regarding these pay movement mechanisms. However,~~
44 ~~Section 840-2.17 of the Oklahoma Personnel Act requires an Appointing Authority who~~
45 ~~uses any of these pay movement mechanisms for positions in the unclassified service to~~

1 ~~report their use to the Office of Personnel Management. Reporting requirements are~~
2 ~~listed in subsection (e) of this section. Nothing in this subsection is intended to limit the~~
3 ~~use of any other salary adjustments authorized by law for positions in the unclassified~~
4 ~~service.~~

5 ~~(e)(b) An Appointing Authority using any of the pay movement mechanisms listed in~~
6 ~~subsection (a) shall annually report the pay movement mechanisms used to the Office of~~
7 ~~Personnel Management no later than January 1 of each year on a form prescribed by the~~
8 ~~Administrator. The report shall include information for the twelve -month period ending~~
9 ~~on December 31 of each year and shall include the type of pay mechanisms used,~~
10 ~~frequency, amounts provided, and affected job families and classifications for both~~
11 ~~classified and unclassified employees. The report shall also include a projection of the~~
12 ~~pay movement mechanisms to be used and anticipated costs for the remainder of the~~
13 ~~fiscal year. [74:840-2.17]~~

14 15 **530:10-7-27. Pay for performance**

16 (a) Pay for performance enables state agencies to award a salary increase or lump sum
17 payment to employees who have achieved a "meets standards" or better on their most
18 recent performance evaluation.

19 (b) Appointing Authorities may adopt a pay for performance program for regular
20 classified full-time and part-time employees pursuant to this Section. Pay for
21 performance for part-time employees shall be on a pro-rated basis.

22 (c) In order to adopt a pay for performance program, an Appointing Authority must
23 submit a written pay for performance plan to the Administrator. The plan may be
24 amended on an annual basis. The plan must include:

25 (1) An amount or percentage that the agency will award for "meets standards"
26 and "exceeds standards." The amount or percentage shall not exceed 5% of an
27 employee's annual salary for "meets standards" or 10% of an employee's annual salary for
28 "exceeds standards";

29 (2) A determination as to whether the agency will award pay for performance as
30 an increase to the employee's salary, a lump sum payment, or a combination;

31 (3) A certification signed by the Appointing Authority that the agency can fund
32 the pay for performance program for the current and subsequent fiscal year without the
33 need for additional funding, and that the plan provides for uniform treatment of all
34 permanent classified employees of the agency who achieve a "meets standards" or
35 "exceeds standards" except as provided in subsection (e). The Appointing Authority
36 shall not delegate authority to sign the certification.

37 (d) The pay for performance plan must be approved by the Administrator before the
38 Appointing Authority may grant pay for performance to any employee.

39 (e) An Appointing Authority shall not grant pay for performance salary increases which
40 cause an employee's base salary to exceed the maximum of the pay band to which the
41 employee is assigned. Such employees may be given pay for performance increases as a
42 lump sum payment at the discretion of the Appointing Authority.

43 (f) An Appointing Authority shall not grant more than one pay for performance increase
44 to any employee in any 12-month period. An Appointing Authority shall not award a pay
45 for performance increase to any employee based upon a performance evaluation which is
46 not in compliance with Section 840 -4.17 of Title 74 of the Oklahoma Statutes.