

REVISED (Dec. 2021) STATE PERSONNEL RULES AND REGULATIONS FAQ

1. **(Ch. 5, Sec. 01 NEW HIRE)** Since a teammate transferring from one agency to another agency is considered a new hire for original probationary period purposes, are those teammates eligible for a 5% end of original probation increase in accordance with Ch. 7 Sec. 02?

ANSWER: No, existing state teammates are not eligible for an end of original probation increase. While Chapter 5.01 NEW HIRES, in this context, is to be understood as hires NEW TO AN AGENCY, both external and those transferring from another state agency for which an original probationary period is now required. Chapter 7.02 only addresses salary increases upon completion of original probation for new externally hired state teammates. Pay range changes for existing state teammates, including those transferring to a different agency, are addressed in Chapter 7.03

2. **(Ch. 5, Sec. 04 TRANSFERS)** Does this section apply only to teammates who transfer WITHIN an agency, or does it also include teammates who transfer TO another agency?

ANSWER: Chapter 5.04 TRANSFERS is to be understood in reference to those transfers WITHIN an agency for the reasons mentioned and is not an original probationary period. Teammates who “transfer” from one agency to another agency are now required to serve an original probationary period per Chapter 5.01. However, agency heads still retain all options in Chapter 5.02, 5.03, and 5.04 as may be available and applicable if a transferring employee WITHIN an agency or TO an agency is not meeting performance expectations. For example, an agency head could not revert a teammate back to a previous position if that teammate transferred from a different agency, but still may opt to allow the teammate to apply for another open position they are qualified for, to reassign the duties of the teammate, to reclassify the teammate to a classification of a lower pay range or to terminate the teammate at the agency head’s discretion.

3. What happens if an external new hire teammate promotes or transfers to another position before they complete their original probationary period?

ANSWER: If the action is a:

PROMOTION: The teammate must be placed at least at the MPR per Chapter 7.003.01(B)(i) - The employee will be paid at least the minimum permanent rate of their new pay range.

DEMOTION OR LATERAL CHANGES: If new salary is below MPR, the teammate can be raised at any time in the following 6 months but must be moved to MPR by end of six months per Chapter 7.03.02(C).

In either instance, the Pay Calculator determines the new salary as either a promotion, lateral or demotion, then the Rules sections noted above apply.

4. **(Ch. 5, Sec. 04 TRANSFERS)** Does a sending agency have any involvement in the original probationary periods now required for teammates who transfer to a different agency?

ANSWER: In the case of transfers from one agency to another, teammates must now serve an original probationary period (Chapter 5.01). So, in these instances the sending agency would not have any involvement in that original probationary period at the receiving agency. See FAQ #2 for additional information.

5. **(Ch. 5, Sec. 04 TRANSFERS)** If a non-original probationary period doesn't impact teammates' grievance rights, does that mean agencies are required to work through the disciplinary process to terminate or demote a teammate who is not performing adequately?

ANSWER: This section is essentially the same as the 2006 Rules Chapter 6.002. All options listed in this section for performance issues of a transferred teammate are available at the discretion of the agency head. However, a teammate may grieve those actions if not serving an original probationary period. Supportive documentation, counseling, and disciplinary process should be utilized accordingly for any action that may be taken to address performance issues.

6. **(Ch. 7, Sec. 01.02 (E))** What is considered operational impact to the State?

ANSWER: This was simply rewording to clarify that State Personnel is looking for any detrimental operational impact to the agency/State if a particular applicant is not hired. There was no intent to change what was being requested in the 2006 version.

7. **(Ch. 7, Sec.02 SALARY INCREASES UPON COMPLETION OF ORIGINAL PROBATION)** This section indicates "At the agency head's discretion, employees may be eligible for a 5% raise or a raise to the minimum permanent rate, upon completion of their original probationary period." Does this mean that teammates can possibly stay at minimum hire rate after completion of the probationary period?

ANSWER: This change was simply a word reduction to make this section more concise. Chapter 2 Sec. 001.027 states clearly that teammates who successfully complete original probation must be compensated at least at the Minimum Permanent Rate. All the options spelled out in detail in the 2006 version are still available.

8. **(Ch. 7, Sec. 003.01(A))** How is this different from an in-grade adjustment for sustained high performance or reclassifications for taking on additional duties?

ANSWER: While this provision does not change the current promotional process or reclassification process, it was added to provide more paths to state teammates for performance-based career progression and compensatory rewards. These intentional enhancements were made to both attract and retain talent through strategically planned career progression by defining the circumstances for promotions. Guidance is provided in the Personnel Rules Revision Chapter 7 Guidance document.

9. **(Ch. 7, Sec. 003.01(A))** Would the promotion be available to a teammate just because they've been in the same position for three years? Does the agency need to provide any additional justification other than the teammate has been in the current role for 3 years?

ANSWER: See FAQ #7 above. Guidance is provided in the Personnel Rules Revision Chapter 7 Guidance document.

10. **(Ch. 7, Sec. 003.01(A))** What are the parameters of any potential pay increase, since the provisions of Sec. 003.01(B) wouldn't apply without the person moving to a new position?

ANSWER: The 2006 Rules did not delineate under which circumstances an "upward" Salary Grade Change (Promotion) could take place. The 2021 Rules now define specific circumstances that may warrant the consideration of an agency head to promote a teammate:

- (i) A non-supervisory employee has held same role for three years; or
- (ii) The employee exceeds expectations of current role and meets minimum qualifications of the pay range.

Both Chapter 7 provisions, 03.01(A)(i) & (ii), apply to promotional pay range changes resulting from either a teammate being hired into a position with a higher pay range or being reclassified into a classification with a higher pay range. Guidance is provided in the Personnel Rules Revision Chapter 7 Guidance document.

11. **(Ch. 7, Sec. 003.01(A))** Does "promote to a higher pay range" indicate the Director has authority to reclassify a teammate's position to one with a higher pay range?

ANSWER: This does not change the current promotional process or reclassification process at all. This change was intentional to create the potential for a promotional option for individual contributors (SMEs) that doesn't force them into a supervisory role that doesn't fit. Guidance is provided in the Personnel Rules Revision Chapter 7 Guidance document.

12. **(Ch. 7, Sec. 003.01(A))** How does this section differ from Sec. 04 (F)?

ANSWER: Section 03.01 (A)(ii) provides an opportunity for strategic career advancement for individual-contributors (SMEs) through their job series in non-supervisory positions. The intent is to facilitate strategic career progression for teammates that prepares them for promotional opportunities without having to promote to a supervisory role that may not be a good fit for the teammate. Guidance is provided in the Personnel Rules Revision Chapter 7 Guidance document.

Section 04 (F) is different in that it provides a means to reward sustained high performance in any role – individual contributor or supervisory – in addition to any annual Pay for Performance increases. Guidance is provided in the Personnel Rules Revision Chapter 7 Guidance document.

13. **(Ch. 7, Sec. 003.01(B) PROMOTIONAL CHANGES)** Does this limit promotional increases to 10% for teammates? Also, what equates to a "pay range" in determining how many pay ranges a teammate is advancing?

ANSWER: The intent here is to make available for internal hires/promotions the same factors that are considered for external hires in above-hire requests (Chapter 7 01.02). Per our rules promotional calculator, the default promotional rate is 10% per pay range. The new revision allows for agency heads to request a promotional increase in excess of

the 10% per pay range for the reasons referenced in Chapter 7, subsection 001.02. This allows similar treatment for internal hires/promotions and external hires.

The number of pay ranges is determined by the Rules Pay Calculator as the percentage difference between the Minimum Hiring Rate for a teammate's current classification compared to the Minimum Hiring Rate for the new classification. Those percentage differences are translated to promotional rates as follows:

- $\leq +4.9\%$ = Lateral Transfer
- +5-9.9% Difference = Up to 10% increase
- +10-14.9% Difference = Up to 20% increase
- +15-19.9 Difference = Up to 30% increase
- $\geq 20\%$ - up to 30% increase
- Any increase over 30% requires State Personnel approval

Guidance is provided in the Personnel Rules Revision Chapter 7 Guidance document.

14. **(Ch. 9, Sec.05 CATASTROPHIC LEAVE)** Is it correct that the revised rules now state that in order to be eligible for catastrophic leave donations, a teammate must have only exhausted all earned sick leave whereas previously all earned paid leave time needed to be exhausted?

ANSWER: Yes, the revised Rules did change from all paid leave to just sick leave. This does not affect current labor contracts which require all paid leave as is written in the contract language.

15. **(Ch. 9, Sec. 11 MILITARY LEAVE)** Why do the revised rules say available military leave hours per year are 120 when this changed due to the provisions of the fall of 2021 NAPE and FOP letters of agreement provisions for 440 hours of leave were extended to rules teammates?

ANSWER: The revised Personnel Rules did not include some items that were recently changed such as Military Leave. The expansion of Military Leave was the result of the State Personnel Director extending the provisions of the NAPE and FOP Letters of Agreement from November 8 and December 6 respectively via statutory authority (81-1317) to Rules teammates. As a result, Military Leave for Rules teammates is at 440 hours per the State Personnel Director's October 25, 2021, Memorandum. This memo supersedes the revised Rules language.

16. **(Ch. 9, Sec. 17.02 CONDITIONS FOR USING FAMILY AND MEDICAL LEAVE)** Does the use of the word "may" in the section stating "an employee may use Family and Medical Leave for the following reasons" mean a teammate may elect to not use FMLA leave even if the teammate has a FMLA qualifying reason for their absence?

ANSWER: The whole of the document and FMLA law and policies interpret here. This a list of the qualifying reasons an employee MAY use FMLA leave and is not intended to communicate that when a qualifying teammate is absent for a qualifying FMLA reason they MAY or MAY NOT elect to use FMLA leave for the absence. FMLA leave by law must be used when there is a FMLA qualifying reason.

17. **(Ch. 14, Sec. 08 GRIEVANCE PROCEDURE AND TIME ALLOWANCES)** How do Steps 1 and 2 differ? What is the definition of “subordinate”?

ANSWER: Employees have the option of presenting the grievance directly to the agency head OR a designee (subordinate of the agency head) at Step 1. If the grievant presents to the designee, then the Step 2 Appeal to Agency Head is preserved. Step 2 only applies if the agency head designee issues the Step 1 decision. In this case, the agency head is responsible to issue a decision to a Step 2 appeal. Thereafter, the grievant has the option of Step 3 Appeal to the State Personnel Board.

If the grievant presents directly to the agency head in Step 1 and the agency head issues a decision, then Step 2 is no longer an option and any appeal goes directly to Step 3 Appeal to State Personnel Board.