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Chapter ER 29

COMPENSATION ADMINISTRATION PROVISIONS

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Note: Corrections made under s. 13.93 (2m) (b) 6., Stats., Register December 2003 No. 576.

ER 29.01 Definitions. (1) “Cumulative pay adjustment” means an adjustment in base pay.

(2) “Present rate of pay” means the base pay rate currently authorized for the position which determines the type of personnel transaction which will occur, except as modified by s. ER 29.03 (4) (a) regarding pay on promotion.

(3) “Red circled pay rate” means a base pay rate received by an employee which is above the pay range maximum for the classification of the employee’s position.

History: Cr. (1) and (3), (2) renum. from ER–Pers 29.01 (2), Register, May, 1988, No. 389, eff. 6–1–88.

ER 29.02 Purpose. Except for s. ER 29.05, compensation administration provisions for nonrepresented employees are provided in the compensation plan. The main purpose of this chapter is to provide compensation administration provisions for collective bargaining agreements that reference this chapter.

History: CR 04–139; cr. Register June 2005 No. 594, eff. 7–1–05.

ER 29.025 Red circled pay rates. Personnel transactions which may result in a red circled pay rate, are specified in ss. ER 29.03 and 30.09 (3) and (4).

Note: ER 30.09 (3) and (4) were repealed eff. 5–1–02.

(2) Except as provided in sub. (3), employees whose pay has been red circled as a result of a personnel transaction or other circumstance shall continue to receive their present rate of pay until the pay range maximum for the class exceeds their present red circled pay rate. Such employees shall not be eligible to receive any cumulative pay adjustments, except as authorized in the compensation plan or the appropriate collective bargaining agreement.

(3) Nonrepresented employees whose pay has been red circled as a result of layoff, and whose restoration rights have been forfeited as a result of a failure to accept a reasonable offer of appointment or reappointment pursuant to ch. ER–MRS 22, shall have their base pay reduced to the maximum of their current pay range.

History: Cr. (3), (1) and (2) renum. from ER–Pers 29.025 (3) and (4) and am. Register, May, 1988, No. 389, eff. 6–1–88; correction in (3) made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1994, No. 466.

ER 29.03 Transaction pay adjustments. (1) GENERAL. Pay shall be determined in accordance with subs. (1) to (9), except that the appointing authority may determine pay for transactions in subs. (4) to (6) using hiring above the minimum in accordance with the rules of the compensation plan or applicable collective bargaining agreement. Upon the completion of any personnel transaction, employees shall receive a base pay rate not less than:

(a) The PSICM rate for the class if the employee is not serving a probationary period.

(b) The minimum rate for the class if the employee is serving a probationary period.

(c) The minimum rate for the training program if the employee is serving a probationary period in a trainee class.

(2) PAY ON COMPLETION OF THE FIRST 6 MONTHS OF PROBATION.

(a) In schedules where appropriate, subject to the maximum of the pay range, a probationary increase of either one within range pay step or the amount required to bring the employee’s base pay to PSICM, whichever is greater, shall be granted to an employee effective the beginning of the pay period closest to the completion date of the first 6 months of an original or promotional probationary period served in a non–trainee status. Thereafter, the employee shall be guaranteed PSICM while serving in the position. If an employee transfers while serving an original or promotional appointment probationary period, the probationary increase shall be granted only upon completion of the first 6 months of the new original appointment or promotional probationary period, which may include carry–over time under s. ER–MRS 15.07.

(b) When an employee is required to serve a permissive probationary period, completion of such probationary period shall not make the employee eligible to receive a pay increase as provided in par. (a). However, upon completion of any such probationary period, an employee shall receive a base pay rate not less than the PSICM.

(3) PAY ON REGRADE. (a) *Pay adjustments resulting from regrade.* Pay adjustments resulting from regrading an employee shall be effective in accordance with the policies established by the director.

(b) *Reallocation to a higher class.* The pay of regraded employees whose positions are reallocated to a higher class shall be determined as follows:

1. Regraded employees, except trainees, who do not have reinstatement eligibility or restoration rights to a class higher than the current class shall receive a base pay rate equal to the greater of the following amounts:

a. The PSICM of the new class if the employee is not serving the first 6 months of a probationary period or project appointment in the position.

b. The minimum of the new class if the employee is serving the first 6 months of a probationary period in the position or the first 6 months of a project appointment.

c. The present rate of pay.

2. Regraded employees, except trainees, who have reinstatement eligibility or restoration rights to a higher class than the class from which regraded shall receive the pay rate calculated as if they had been reinstated or restored to the class from which reinstatement eligibility or restoration rights are derived or the amount provided under subd. 1. a., b. or c.; whichever is greater.

3. If a trainee, a regraded employee shall retain the same pay relationship within the training program, based upon qualifications and the specific segments of the training program that have been waived or completed.

(c) *Reclassification to a higher class.* The pay of regraded employees whose positions are reclassified to a higher class shall be determined as follows:

1. Regraded employees who do not have reinstatement eligibility or restoration rights to a class higher than the class from which regraded shall, in schedules where appropriate, receive a base pay increase to the PSICM of the new class or a one within

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range pay step increase, whichever is greater, subject to the pay range maximum.

2. Regraded employees who have reinstatement eligibility or restoration rights to the class to which regraded shall receive a pay rate equal to the amount determined under par. (b) 2.

3. Regraded employees who have reinstatement eligibility or restoration rights to a class level lower than the class to which they were regraded but higher than the class from which regraded shall receive an amount in accordance with par. (b) 2. or one within range pay step, whichever is greater.

(d) *Reallocation or reclassification – same or counterpart pay range.* Regraded employees whose positions are reallocated or reclassified to a class assigned to the same or counterpart pay range shall receive no pay increase if the employee's present pay rate is at or above the PSICM of the new class. When trainee classes are affected, the trainee shall retain the same pay relationship within the training program, based upon qualifications and the specific segments of the training program that have been waived or completed.

(e) *Reallocation or reclassification to a lower class.* The pay of regraded employees whose positions are reclassified or reallocated to a lower class shall be determined as follows:

1. Regraded employees serving a probationary period for an original appointment shall continue to be compensated at their present rate of pay as long as it does not exceed the pay range maximum for the new class. If the present rate of pay exceeds the pay range maximum, it shall be reduced to the pay range maximum. If the employee has previously attained permanent status in class but is serving a probationary period as a result of a promotion or transfer within the agency, the appointing authority, under s. 230.28 (1) (d), Stats., shall restore the employee to his or her former position or a similar position assigned to a class in the same or counterpart pay range if the incumbent requests such action in lieu of continuing in the reallocated position. In such action, the employee's base pay rate shall be determined in accordance with s. ER 29.03 (7) (b).

2. Regraded employees who have permanent status in the new class shall continue to be compensated at their present rate of pay. If the present rate of pay exceeds the pay range maximum, it shall be red circled and continued under the provisions of s. ER 29.025.

(4) PAY ON PROMOTION. (a) *Definitions.* In this subsection:

1. "Present rate of pay" means any of the following:

a. For the promotion of an employee serving a probationary period who also attained permanent status in class within the past 3 years, the base pay rate calculated as if the employee were restored to a position in the class in which the employee had permanent status in class. If the employee held permanent status in more than one position within the past 3 years, the base pay rate on restoration must be calculated for each position in which the employee held permanent status and the "present rate of pay" would be the greater of these base pay rates.

b. For the promotion of an employee or former employee in layoff status, the base pay rate calculated as if the person were restored to a position from which the employee or former employee was laid off, except as provided in subd. 1. c. and d.

c. For the promotion of a current employee in layoff status who is serving a probationary period, the rate of pay under subd. 1. a. or b., whichever is greater.

d. For the promotion of a current employee in layoff status who is not serving a probationary period, the current base pay rate received or the rate of pay under subd. 1. b., whichever is greater.

e. For the promotion of an employee on approved leave of absence, the base pay rate calculated as if the employee were restored to a position in the highest class in which permanent status in class was held at the time the employee began the leave of absence.

f. For the promotion of an employee where subd. 1. a. to e. do not apply, the employee's present rate of pay as defined under s. ER 29.01 (2).

2. "Range" means the new pay range.

(b) *Calculating pay on promotion.* 1. In pay schedules where appropriate, on promotion an employee's present rate of pay shall be increased by 3 within range pay steps, or to the minimum of the range, whichever is greater.

2. Promotional increases are subject to the maximum of the range. However, employees whose pay is red circled and exceeds the new pay range maximum shall retain their red circled rate.

(5) PAY ON TRANSFER. (a) In schedules where appropriate, when an employee transfers, the base rate paid may be any rate within the pay range which is not greater than the last base pay rate received in the employee's former position with the following exceptions:

1. Employees who are not serving a probationary period shall receive a base pay rate not less than PSICM for the class.

2. Employees who are involuntarily transferred for reasons other than disciplinary reasons shall retain their present rate of pay. If the present rate of pay exceeds the new pay range maximum, it shall be red circled and continued under the provisions of s. ER 29.025.

(b) Employees whose pay has been red circled and who voluntarily transfer to a different position shall lose their red circled rate.

(6) PAY ON REINSTATEMENT. (am) When an employee who has not held permanent status in class within the last 5 years is reinstated, pay on reinstatement shall be determined in accordance with the appropriate provisions regarding pay on original appointment contained in the compensation plan adopted under s. 230.12, Stats., or a collective bargaining agreement under subch. V of ch. 111, Stats.

(b) For the purposes of par. (c) "last rate received" means the highest base pay rate received in any position from which reinstatement eligibility is derived and in which the employee held permanent status in class, within the last 5 years.

(c) 1. Except as provided in subds. 2., 3. and 4., when an employee is reinstated, the base pay may be at any rate which is not greater than the last rate received plus intervening compensation plan adjustments pursuant to s. 230.12, Stats., or contractual adjustments pursuant to s. 111.92, Stats. When such adjustments are discretionary the amount shall be limited to the amount which would have been generated by the employee. The adjustments applied to the employee's last rate received shall be that of the appropriate pay schedule and class from which reinstatement eligibility is derived subject to the following:

a. Employees placed on probation when reinstated shall be paid not less than the minimum of the pay range to which the class is assigned.

b. Employees not placed on probation when reinstated shall be paid not less than the PSICM of the pay range to which the class is assigned.

c. Employees shall not be paid more than the maximum of the pay range to which the class is assigned.

2. When an employee is reinstated following layoff the base pay shall be calculated in accordance with subd. 1. However, if the employee is reinstated to the highest level vacancy available for which the employee is qualified within the agency from which layoff occurred, and if the last rate received in the position from which layoff occurred exceeds the maximum of the new range, the employee may be paid any base pay rate which does not exceed that last rate received, subject to subd. 1. (intro.), a. and b.

3. The director may waive the limit on intervening discretionary compensation plan adjustments provided in subd. 1. intro. upon reinstatement of an employee following employment in the unclassified service if the work in the unclassified service was

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closely related to and at a higher level than the work of the position to which reinstated. Upon approval by the director, intervening discretionary compensation plan adjustments shall not be limited by the amount which should have been generated but shall be subject to the limits specified in the compensation plan and s. 230.12, Stats.

4. When the position to which an employee is reinstated is in a higher class than the highest position currently occupied and the employee's pay rate is red circled in the highest position currently held, the base pay shall be calculated in accordance with subd. 1. However, if the employee's red circled pay rate exceeds the maximum of the new pay range, the employee may be paid any base pay rate which does not exceed the red circled pay rate, subject to subd. 1. a. and b.

(7) PAY ON RESTORATION. (a) For the purposes of this subsection, "last rate received" means the last base pay rate received in the position from which restoration rights are derived.

(b) When an employee is restored following military service, pursuant to s. 230.32, Stats., following approved leave of absence without pay under s. ER 18.14, or following noncompletion of a promotional probationary period within an agency under s. ER-MRS 14.03 (1), the employee shall receive a base rate equal to the last rate received plus intervening adjustments identified under s. ER 29.04 (13) or (14). When such adjustments are discretionary, the amount shall be limited to the amount which would have been generated by the employee. The adjustments applied to the employee's last rate received shall be that of the appropriate pay schedule for the class from which restoration rights are derived.

(c) When an employee is restored following a layoff pursuant to s. 230.34 (2), Stats., to the highest level vacancy for which he or she is qualified within the employing unit or agency from which the employee was laid off, the pay on restoration shall be calculated in accordance with par. (b).

(d) When an employee is restored following a layoff pursuant to s. 230.34 (2), Stats., to a vacancy at a lower level than the highest level vacancy for which the employee is qualified in the employing unit, the employee's rate of pay shall be calculated in accordance with par. (b), subject to the maximum of the pay range to which the class is assigned.

(e) If the employee's base pay on restoration pursuant to par. (b) or (c) exceeds the new pay range maximum, it shall be red circled under the provisions of s. ER 29.025.

(f) When an employee is restored in accordance with an order of the Wisconsin Employment Relations Commission or a court action, the employee's rate of pay shall be as ordered by the commission or court.

(8) PAY ON DEMOTION. (a) An employee demoted for disciplinary purposes may receive any base pay rate within the new pay range as defined under s. ER 1.02 (23) which is not greater than the last rate received and not less than PSICM.

(b) An employee who voluntarily demotes may receive any base pay rate within the new pay range which is not greater than the last rate received, except employees who are not serving a probationary period shall receive a base pay rate not less than PSICM.

(bm) Notwithstanding par. (b), an employee who voluntarily demotes within the agency after the employee has been notified in writing by the appointing authority that layoffs may occur in the agency and the employee's position may be affected by the impending layoffs, may be allowed to retain his or her present rate of pay if the demotion is to a position no more than three pay ranges or counterpart pay ranges lower than the pay range of the position from which the employee is demoting. If the present rate of pay is above the maximum for the new class, it may be red circled, subject to s. ER 29.025.

(c) An employee who exercises a mandatory right of demotion as a result of layoff to the highest level vacancy available for which the employee is qualified within the agency from which the

layoff occurred, and an employee who exercises displacement rights and demotes pursuant to s. ER-MRS 22.08 (3) shall retain his or her present rate of pay. If the present rate of pay is above the maximum for the new class, it shall be red circled, subject to s. ER 29.025.

(d) An employee's pay rate shall be established pursuant to par. (b) if he or she chooses to demote:

1. Within the agency as a result of layoff to a vacancy other than the highest level vacancy available for which the employee is qualified within the agency;

2. Between agencies as a result of layoff.

(e) An employee who demotes within the agency as a result of layoff when the demotion is a permissive appointment to the highest level vacancy available for which the employee is qualified within the agency from which layoff occurred shall have his or her pay on demotion established pursuant to par. (b). However, if the present rate of pay is above the maximum for the new class the employee may be paid any base pay rate which does not exceed the last base pay rate received in the position from which layoff occurred.

(9) PAY ON ACCRETION. Under s. 230.15 (1), Stats., when the state becomes responsible for a function previously administered by another governmental agency or a quasi-public or private enterprise or when positions in the unclassified service, excluding employees of the legislature, are determined to be more appropriately included in the classified service, the director shall determine the appropriate pay subject to the following:

(a) Employees placed on probation shall be paid not less than the minimum of the pay range to which the class is assigned.

(b) Employees not placed on probation shall be paid not less than the PSICM of the pay range to which the class is assigned.

(c) Employees shall not be paid more than the maximum of the pay range to which the class is assigned.

History: Cr. (2m), (3) (b) (intro.), 1. intro. and c., 2., (c) (intro.), 2. and 3., (4) (a), (6) (a), (c) 1. c. and 2. to 4., (7) (a) and (c) to (e), (8) (c) to (e) and (9); (1), (2), (3) (a) to (c), (4) (b), (5), (6) (b), (6) (c) 1. intro., a. and b., (7) (b) and (f), (8) (a) to (c) renum. from ER-Pers 29.03 (3), Register, May, 1988, No. 389, eff. 6-1-88; correction in (2) (a), (4) (a) 1., f., (7) (b) and (8) (c) made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1994, No. 466; emerg. cr. (8) (bm), eff. 3-18-96; cr. (8) (bm), Register, July, 1996, No. 487, eff. 8-1-96; am. (6) and cr. (6) (am), Register, December, 1999, No. 528, eff. 1-1-00; **CR 04-139: r. (2m) and (6) (a); am. (6) (am) and (b) Register June 2005 No. 594, eff. 7-1-05.**

ER 29.04 Multiple pay adjustments on same date, order of application. Multiple pay adjustments that are effective on the same date will be applied in the following order:

(1) Completion of the first 6 months of a probationary period, career executive trial period, or project appointment.

(2) Regrading an employee as a result of a reallocation decision.

(3) Regrading an employee as a result of a reclassification decision.

(4) Assignment of an attorney to a regrade point.

(5) Promotion.

(6) Career executive voluntary movement to a higher class.

(7) Demotion.

(8) Career executive reassignment or voluntary movement to a lower class.

(9) Transfer.

(10) Career executive reassignment or voluntary movement to a class assigned to the same pay range.

(11) Reinstatement.

(12) Restoration.

(13) Compensation plan or contractual adjustments pursuant to s. 230.12 (3) or 111.92, Stats., respectively, including but not limited to within range pay adjustments other than those made under subs. (1) through (12) and (15).

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(14) Compensation plan schedule adjustments under s. 230.12, Stats. New minimums, PSICMs and regrade point minimums of the pay schedules go into effect after adjustments listed in subs. (1) through (13) are made.

(15) Establishment of a raised minimum rate.

(16) Original appointment.

History: Cr. Register, February, 1981, No. 302, eff. 3-1-81; r. and recr. (1) to (3), renum. (4) to (7) to be (5), (13), (14) and (16) and am. (5) and (16), cr. (4), (6) to (12), (15) and (17), Register, February, 1983, No. 326, eff. 3-1-83; renum. from ER-Pers

29.04 and am. (1), (6), (13) and (14), r. (16), renum. (17) to be (16), Register, May, 1988, No. 389, eff. 6-1-88; cr. (intro.), Register, December, 1999, No. 528, eff. 1-1-00; CR 01-140: am. (10) Register April 2002 No. 556 eff. 5-1-02.

ER 29.05 Retroactive salary increase or decrease.

Except for action in accordance with ss. 230.43 (4), 230.44 (4) (c) and 230.45, Stats., or to correct an error, no pay increases or decreases shall be retroactive.

History: Cr. Register, February, 1981, No. 302, eff. 3-1-81; renum. from ER-Pers 29.05, Register, May, 1988, No. 389, eff. 6-1-88.