

HR/LR Policy #1305

Salary on Demotion

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Authority: Enterprise Human Resources

Policy Statement

Agencies are not authorized to pay demoted employees above the salary range maximum without approval by the Commissioner of MMB. The Commissioner's decision will consider information in the agency request, as well as applicable laws, this policy, collective bargaining agreements, and compensation plans.

Reason for the policy

To clarify the circumstances under which agencies may request approval by MMB for an employee to be paid at a salary rate above the range maximum when the employee is demoted.

Roles & Responsibilities

Agencies are responsible for:

- Applying the provisions of this policy and procedure when considering requesting MMB approval for salary above maximum upon demotion.

MMB is responsible for:

- Ensuring consistent application of M.S. 43A.17, subdivision 5 among state agencies.

Applicability

Salary above maximum on demotion is permitted only for employees in the classified service with permanent status in executive branch agencies, the Office of the Legislative Auditor, the Minnesota State Retirement System, the Public Employees Retirement Association, and the Teacher's Retirement Association, and only with prior approval as described in this Policy.

Statutory References

Minnesota Statutes 43A.17, subdivision 5.

Policy Requirements

An Appointing Authority cannot pay a demoted employee at a salary rate in excess of the salary range maximum for the position unless the Commissioner of MMB grants prior approval.

The Commissioner of MMB may authorize payment above the salary range maximum only when it is consistent with the provisions of the applicable collective bargaining agreement or compensation plan, as well as state statute. If a contract or plan requires reduction of an employee's salary on demotion, state statute cannot be used to circumvent the contract or plan.

Upon request by an Appointing Authority, and when consistent with statute, contract or plan, the Commissioner may approve salary at any rate between the maximum of the salary range for the position to which the employee is demoted and the employee's pre-demotion salary rate.

If an employee is granted salary above maximum on demotion, the employee is not eligible for future salary increases until the salary range for the new classification equals or exceeds the employee's salary, unless salary increases are provided by specific language in the applicable collective bargaining agreement or compensation plan.

Process for Requests to MMB and Criteria for Consideration:

MMB will only grant requests for retention of salary upon demotion based upon the criteria listed in this section. Agencies requesting that an employee be paid a salary above the range maximum on demotion should submit information from one or more of the following three criteria to the MMB HRM Program Strategies Unit for consideration:

1. Description of the employee's long or outstanding service

An employee's long or outstanding service is not sufficient by itself to support approval, but may be combined for consideration with other factors below.

2. Evaluation of the employee's exceptional or technical qualifications

An employee's exceptional or technical qualifications may support approval if the following three factors are met:

- a. The employee's qualifications are uniquely related to the position to which the employee is demoting
- b. Candidates with these qualifications are not otherwise available
- c. The employee is willing to accept the demotion only if permitted to retain a higher rate of pay

3. Substantial changes in the employee's work assignment beyond the control of the employee

Substantial changes in work assignments might result from reorganization of the agency, the abolition or removal of certain key duties through legislation or executive order, or other reasons beyond the

employee's control. The change in work assignment must have been actually beyond the employee's control for this factor to be considered.

MMB does not have authority to grant requests based upon any other criteria.

Contact

Enterprise Human Resources HRM Program Strategies Unit