



| ADVANCED STARTING SALARY OPERATING PROCEDURE | |
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| Department of Human Resources Statewide Operating Procedure #: To be assigned. | Authority: Merit Rules (MR) 4.4.2, 4.4.3, 4.6, 4.7; State Budget Act. |
| Effective Date: February 4, 2021 | Supersedes: July 20, 2020; May 27, 2020 |
| Application: Merit and Merit Comparable Employees | |

1. ELIGIBILITY

Agencies requesting Advanced Starting (AS) Salary, AS Salary with Leveling Up, or State Budget Act Line Item (budget line item) salary for individual eligible employees.

2. POLICY/REGULATION

- a. Per MRs 4.4.2, 4.4.3, 4.6, and 4.7 and the State Budget Act, Agencies may request AS Salaries for new hires, promotions, and voluntary demotions, respectively, when an employee’s or applicant’s qualifications are clearly over and above those required as minimum by the class specification.¹ These requests are for a salary above 85% of midpoint or above 80% of midpoint for classes on Selective Market Variation (SMV) or the 5% promotional increase guarantee for promotion of eligible employees or to hire a candidate into a budget line item division-level position that is higher than the salary listed in the State Budget Act, Section 10(a).
- b. The AS Salary request process applies to Classified² and Merit comparable (Exempt) positions.³ Promotional AS Salaries requested for over 85% of midpoint, and over 80% for classes on SMV, of an employee in a Merit or Merit comparable position must be requested and approved by the DHR Secretary. Merit position requests are in accordance with MRs 4.4.2, 4.4.3, 4.6, and 4.7. Merit comparable requests are in accordance with Section 9(a) of the Fiscal Year Budget Act which states that employees accepting an exempt position will be treated in accordance with MRs 4.4.3 (Critical Shortage), 4.5 (Transfers), 4.6 (Promotion), and/or 4.12 (pay rates after reclass or grade change). Merit comparable requests for initial hire into an exempt position and voluntary demotion within Merit comparable positions do not require Central

¹ Agency Human Resources (HR) manages the process without central compensation review of Advanced Starting Salary Requests of 80% through and including 85% of Pay Grade Midpoint for Agency operational staff and for Selective Market Variation Advanced Starting Salary Requests up through and including 80% of Pay Grade Midpoint. Agency HR shall document the rationale and equity for these requests.

² Classified positions are those defined in 29 *Del.C.* § 5903 Classified service and exemptions.

³ Merit comparable is defined in the State Budget Act Epilogue, Sections 9(a).

Department of Human Resources' (DHR) approval. Agency Human Resources (HR) can set the rate of pay within the range of the pay grade being entered, after considering and documenting internal equity.

- c. If the approved AS Salary request is for an employee being hired into a position in a class with a substantiated critical shortage of applicants, Agency HR representatives are to consider existing lower paid, equally qualified employees' salaries in the same class within the same geographic area that have satisfactory performance. For leveling up, the request must document the classification critical shortage per Merit Rules.
- d. An AS Salary request is for a change in employment status can be requested when a regular employee promotes into a limited-term position and later moves to a full-time regular position in the same classification/pay grade or when an employee accepts a temporary promotion and later moves to a permanent position.
- e. If the AS Salary request is a result of a grievance or arbitration decision or settlement or when DHR is notified that the pay rate of a new or promoted employee creates a 20% salary variance within the class, leveling up may be requested per the State Budget Act.
- f. If the AS Salary request is for a budget line item⁴ division-level position, Agencies must follow approval procedures listed under #3 OP, Starting Salaries for Line Item Positions prior to making any salary offer. Starting salaries at the amount listed in the State Budget Act do not require approval.
- g. The pay rate must be determined in relation to current employees doing work in the classification called an internal assessment. The internal assessment involves reviewing current employees' related education, training, and experience relative to the top candidate's related education, training, and experience and determining an appropriate and equitable salary offer. When determining the salary to offer new hires, promotions, and voluntary demotions, the top candidate's current salary and/or salary history cannot be asked or used when determining the initial salary offer to the candidate.⁵ Once the initial salary offer has been extended and accepted, an employer may inquire about the applicant's compensation history only for confirmation purposes.
- h. If an AS Salary request involves a candidate that does not meet or exceed the job requirements, the request will not be processed and will be returned to the Agency with no action.

⁴ Budget line item positions are defined in the State Budget Act Epilogue, Sections 10(a).

⁵ Per 19 Del.C. § 709B(b), (e) *Unlawful employment practices; compensation history*. It is an unlawful employment practice for an employer or an employer's agent to seek the compensation history of an applicant from the applicant or a current or former employer. Nothing in this section prohibits an employer or an employer's agent from seeking the applicant's compensation history, after an offer of employment with terms of compensation has been extended to the applicant and accepted, for the sole purpose of confirming the applicant's compensation history.

- i. The rate of pay for employees demoted for just cause shall be set by the Agency within the pay range of the lower pay grade.

3. OPERATING PROCEDURES

Advanced Starting Salaries

- a. When a need arises to offer an AS Salary, Agency HR are to request approval by using the AS Salary request process within 30 days of the effective date of the hire or promotion.
- b. The Agency HR representative prepares an AS Salary request form if an Agency requires approval for over 85% of midpoint or over 80% of midpoint if the class is SMV or above the 5% promotional increase guarantee for promotion of eligible employees
 - 1) In Part 1, the sections for Contact name, email, and phone number must be entered. The name of the Agency Fiscal Designee must be entered signifying that salary funds at the Agency are available to support the request. The type of AS Salary request must be selected.
 - 2) In Part 2, all the requested details must be entered.
 - 3) In Part 3, an explanation of how the applicant meets or exceeds each job requirement of the class, by each specification, must be entered.
 - 4) In Part 4, equity information must be provided. The chart is to list the salary amount requested and percentage of midpoint it represents; the relevant education and experience of the candidate or promoted employee(s) with the most recent previous experience; and all employees currently in the class that the requested AS Salary will equal or bypass with the highest salary listed first.
 - i. Only knowledge and work experience that support job and selective requirements count as relevant.
 - ii. Training counts toward job knowledge, not experience.
 - iii. Part-time experience is counted as 50% of full-time experience in most circumstances.
 - iv. Enter supervisory experience only when position is supervisory.
 - v. Concurrent jobs, when one is full time, counts as one job for that time period.
 - vi. Generally, volunteer work does not count toward exceeding job or selective requirements.
 - vii. Internships may count towards experience if relevant to the job requirements on a pro-rated basis.
 - 5) When a classification has one incumbent, Agency HR does an internal assessment of employees in the same pay grade and/or a review of the employees in the same organizational reporting line to determine equity.
 - 6) In Part 5, provide any additional information, including why the requested employee/applicant can bypass other employees in the class.
- c. Agency HR submits a completed AS Salary request form with all required documents to the DHR-Class-Comp@delaware.gov inbox. The candidate's application must be

- attached to the AS Salary request form. All requests require a copy to the Department's Appointing Authority or Designee and to the Agency Fiscal Representative. Documentation that salary funds are available is also to be included.
- d. Once received at Central Classification and Compensation (C/C/C), the C/C/C Administrative representative (C/C/C Admin) records the request into the Central Tracking System (CTS) log and sends Agency HR receipt response. Each step in the process will be logged into the CTS by this representative.
 - e. The AS Salary request will be evaluated only when all the required information is submitted.
 - f. The DHR C/C/C representative (C/C/C Rep) assigned may schedule a conference call with the Agency HR representative to review this request and its priority among all the Agency's submitted requests. DHR will determine if the request is justified and discuss any alternative recommendations with the Agency.
 - g. The C/C/C Rep conducts the analysis, prepares the recommendation, and provides them to the C/C/C Manager for approval followed by review by the C/C/C Administrator.
 - h. C/C/C Admin provides the request with the final determination to the Office of the Secretary for signature.
 - i. The Agency HR representative will receive written notification from C/C/C upon determination of the request and execution by the DHR Secretary and, if applicable, the Director of the Office of Management and Budget (OMB) and, if applicable, the Controller General (CG). Agency HR is responsible for notifying and providing a copy to the Agency Fiscal Designee.
 - j. Agency HR proceeds with implementation with an effective date of hire, voluntary demotion or promotion and must document the employee's AS Salary appropriately in Payroll Human Resource Statewide Technology (PHRST).⁶

AS Salaries with Leveling Up

- a. When a need arises to offer an AS Salary to a candidate when a documented critical shortage exists for the classification (class) per the Merit Rules, as a result of a grievance or arbitration decision or settlement, or when the pay rate of a new or promoted employee is brought to the attention of DHR and per the criteria authorized by the State Budget Act found in Section 2.e. of this Operating Procedure (OP), Agencies may request approval for leveling up using the AS Salary request process.

⁶ Payroll Human Resource Statewide Technology (PHRST) is the system of record as such action dates are to be accurate. If you cannot enter the correct effective date, a DCR must be completed to have PHRST insert the row with the accurate date into the record.

Leveling up employees requires the approvals of the DHR Secretary, the Director of OMB, and the CG.

- b. Agency HR prepares an AS Salary request form and completes Parts 1, 2, 3, 4, and 5.
 - 1) In Part 1, the sections for Contact Name, Email and Phone Number must be entered. The name of the Agency Fiscal Designee must be entered signifying that salary funds at the Agency are available to support the request. The type of request must be selected.
 - 2) In Part 2, all details requested must be entered.
 - 3) In Part 3, an explanation of how the applicant meets or exceeds each job requirement of the class by each specification must be entered.
 - 4) In Part 4, equity information must be provided. The chart is to list the salary amount requested and percentage of midpoint it represents; the relevant education and experience of the candidate or promoted employee(s) with the most recent experience and all employees that will be equaled or bypassed currently in the class with the highest salary listed first.
 - 5) In Part 5, an explanation of the circumstances surrounding the request including verification of the class critical shortage per the Merit Rules or verification of meeting the criteria authorized by the State Budget Act.
 - 6) For verification of class critical shortage, a description of recruiting efforts and results includes: the number of postings for this classification/posting that received less than five (5) qualified applicants on competitive referral lists over the last six (6) months; that the vacancy was frequently posted for greater than 14 calendar days over the last six (6) months; and that it was posted in media sources other than the Delaware Employment Link (DEL) over the last six (6) months. Strategic recruitment measures will be considered, if in place.
 - i. Documentation that salary funds are available is also to be included.
 - ii. For verification of meeting the leveling up conditions under the State Budget Act, information must include: other employees in the same classification and Agency whose backgrounds, in terms of education and experience, are equal to or higher than that of the new or promoted employee(s) or as a result of a grievance or arbitration decision or settlement, and calculations demonstrating at least a 20% salary variance in the classification, per a. of this AS Salaries with Leveling Up section; an explanation of how the level of adjustment(s) would not result in negative equity consequences for other related positions in that class at the same job location.
 - 7) Include additional information, including why the requested employee/applicant can bypass other employees in the class.
- c. Follow Procedures c. through j. under Advanced Starting Salaries in Section 3 of this Policy.

Starting Salaries for Line Item Positions

- a. When a need arises to offer a starting salary to a candidate for a budget line item division-level manager position that is higher than the salary listed in the State Budget

- Act, Section 10(a) Agencies are to request approval by using the AS Salary request process. Requests are not required to pay the line item amount listed in Section 10(a).
- b. In accordance with Section 10(b)(ii) of the State Budget Act, in reviewing such requests, approval is required by the Secretary of DHR, the Director of OMB, and the CG.
 - c. Agency HR prepares an AS Salary request form and completes Parts 1, 2, and 5.
 - 1) In Part 1, the sections for Contact Name, Email and Phone Number must be entered. The name of the Agency Fiscal Designee must be entered signifying that salary funds at the Agency are available to support the request. The type of request must be selected. Documentation that salary funds are available is also to be included.
 - 2) In Part 2, all details requested must be entered.
 - 3) In Part 5, provide a brief summary of the job OR an explanation of the circumstances surrounding the request including the amount requested and justification for the request.
 - 4) A resume or employment application must accompany all requests.
 - d. Follow Procedures c. through j. under Advanced Starting Salaries of Section 3 of this Policy.

4. DEFINITIONS AND ACRONYMS

- Advanced Starting Salary – A salary offer for new hires, promotions, or voluntary demotions that is above 85% of midpoint on the Merit pay ranges; above 80% of midpoint on the SMV pay ranges; or for a budget line item division-level manager position that is higher than the salary listed in the State Budget Act, Section 10(a).
- Agency Fiscal Designee – The Agency fiscal representative that has been notified of the request.
- Agency HR - Agency Human Resources.
- Appointing Authority/Appointing Designee – the official or designee, who has the authority to make appointments to, or dismiss employees from, the Merit service. (The appointing authority is the Cabinet Secretary of the department or the Agency head of those units which are not part of a larger Agency. Only the Cabinet Secretary or Agency head may dismiss employees.) (MR 19)
- C/C/C – Department of Human Resources Central Classification and Compensation.
- Classified Positions – State of Delaware employee positions defined in 29 *Del.C.* § 5903.

- Contingent Hire – A non-State employee who will not accept a State position unless an Advanced Starting Salary is offered.
- Critical Shortage of Applicants/Documented Critical Shortage of Applicants: “Critical shortage” – defined as fewer than five (5) applicants on an open competitive referral list over the last six (6) months; the vacancy was frequently posted for greater than 14 calendar days over the last six (6) months; and the vacancy was posted in media sources other than DEL over the last six (6) months. (MR 4.4.3)
- CTS - Central Tracking System, a method of tracking requests filed with Central Classification and Compensation.
- Demotion – the movement of an employee from a position in a class of a higher pay grade to a position in a class of a lower pay grade through a process other than reclassification (reclass). (MR 19)
- Dual Employment – Employees covered by the FLSA are permitted to accept additional employment in another State Agency with prior written consent of the affected Agencies; also known as a Concurrent Hire.
- Internal Assessment – A review of current employees’ related education, training, and experience relative to the top candidate’s related education, training, and experience to determine an appropriate and equitable salary offer.
- Internal DHR Policy – A policy issued by the Department of Human Resources (DHR) which applies to the work of DHR employees.
- Leveling Up – A rate above the minimum where a critical shortage of applicants exists and all lower paid, equally qualified employees’ salaries are brought up to a New Hire’s salary, if certain criteria are met.
- Merit Comparable - “Merit comparable positions” means those positions which, for salary determination purposes pursuant to the State Budget Act, are assigned classification titles and/or pay grades that are comparable to the titles and/or pay grades of similar positions in the classified service. (19 *Del.C.* § 5901(5))
- New Hire – An employee who is hired from outside State employment.
- Promotion – Movement of a state regular employee from a lower pay grade to a higher pay grade (excludes casual/seasonal employees).
- Relevant Work History – Work history as it relates to the job requirements and/or selective requirements.

- Salary History – Per 19 *Del.C.* § 709B, it is an unlawful employment practice for an employer to seek the compensation history of an applicant from the applicant or a current or former employer.
- Selective Market Variation (SMV) – a process used to increase the salary range for job classifications where severe market competition makes it difficult for the State to recruit and retain qualified employees. (MR 19)
- Selective Requirement – any education, training and/or experience not specifically indicated in the job requirements of a class specification that are required, as they are considered job related and essential for effective performance in a specific position at the time of hire. (MR 19)
- State Budget Act Line Item – Request for salary listed in Section 10 of the State Budget Act.

5. EXCLUSIONS OR EXCEPTIONS

- Union-covered employees with a compensation Collective Bargaining Agreement
- Casual/Seasonal employees

6. FORMS ASSOCIATED WITH THIS OPERATING PROCEDURE

- Quick Reference Advanced Starting Salaries Chart (below)

AS Salary requests must be submitted as outlined in the following chart:

| # | STATUS | REQUIREMENT(S) |
|---|----------------------------------|---|
| 1 | M37-M40 Salary Admin Plan | Offers greater than 85% of midpoint |
| 2 | SMV Salary Admin Plan | Offers greater than 80% of midpoint |
| 3 | New Hire/Voluntary Demotion | Offers greater than 1 or 2 |
| 4 | Promotion | Offers greater than 5% pay increase if it exceeds 1 or 2 |
| 5 | Merit to Non-Merit | Upon initial appointment to a Merit comparable class, the Agency may determine a starting salary within the assigned pay grade range based on internal equity |
| 6 | Non-Merit to Merit | 1, 2, and 3 apply |
| 7 | Non-Merit to Non-Merit Promotion | 4 applies |
| 8 | Non-Merit to Non-Merit Demotion | Agency may determine starting salary within the assigned pay grade range – the same as indicated in 5 |

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| 9 | Involuntary Demotion | Agency may determine starting salary within the assigned pay grade range per Merit Rule 4.7 which states the rate of pay for employees demoted for just cause shall be set by the agency within the pay range of the lower pay grade. |
| 10 | Temporary Promotions or Limited Term to Permanent Promotions Merit | 1 and 2 apply |
| 11 | Temporary Promotions or Limited Term to Permanent Promotions Non-Merit | 1 and 2 apply |
| 12 | Line Item Appointment | Request is only required if requesting to exceed the LINE |

- [Advanced Starting Salary Request Form](#)