

Executive Directive PD-90, “Merit Compensation”



May 1, 2024 (rev. 5)
Supersedes January 1, 2017 (rev. 4)

Authority

1. Fair Labor Standards Act of 1938, as amended (FLSA)
2. 29 U.S.C. §§201—219
3. Tex. Gov't Code §493.001
4. Tex. Gov't Code §493.006(b)
5. Tex. Gov't Code §493.007
6. Tex. Gov't Code §654.0156
7. Tex. Gov't Code §659.255
8. Tex. Gov't Code §659.261
9. BP-02.08, “Statement of Internal Controls”

Applicability

Texas Department of Criminal Justice

Employment At Will Clause

This directive does not constitute an employment contract or a guarantee of continued employment. The Texas Department of Criminal Justice (TDCJ) reserves the right to change the provisions of this directive at any time.

Nothing in this directive limits the executive director's authority to establish or revise human resources policy. This directive guides the operations of the TDCJ and does not create legally enforceable interest for employees or limit the executive director's, deputy executive director's, or division directors' authority to terminate an employee at will.

Policy

The TDCJ promotes equal employment opportunity through a process designed to award merit salary increases and one-time merit payments to employees without regard to race, color, religion, sex (gender), national origin, age, disability, or genetic information. In addition, the TDCJ complies with the provisions of applicable federal and state laws relating to the merit recommendation and approval process. The TDCJ has zero tolerance for all forms of unlawful discrimination in the merit recommendation and approval process. Unlawful harassment or retaliation is prohibited. No employee will be subjected to harassment or retaliation for opposing

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or reporting unlawful discrimination in the merit recommendation and approval process or for associating with a person who opposed or reported an alleged violation of a federal or state law relating to such entitlements.

Definitions

The following terms are defined for the purpose of this directive and are not intended to be applicable to other policies or procedures.

"Career Ladder"

Series of positions requiring greater responsibilities, knowledge, skills, and abilities to function with less supervision as the classification level increases. Other terms having the same meaning are "career path" and "career program."

"Career Ladder Position"

Classified position included in a specified career ladder.

"Classified Employee"

Employee who holds a classified position.

"Classified Position"

Position identified in the General Appropriations Act as being included in the State of Texas Position Classification Plan, and includes all positions in Classification Salary Schedules A or B.

"Demotion"

Change from one classified position to another classified position in a lower salary group, such as B15 to A14 or B15 to B14.

"Exempt Position"

Position listed in the TDCJ Scheduled Exempt Positions, Article IX, General Appropriations Act. Only a limited number of TDCJ positions are exempt positions not included in a classification salary schedule. This term does not refer to a Fair Labor Standards Act exempt position.

"Merit Salary Increase"

Increase in salary as a reward for consistent exceptional performance and productivity as well as an incentive for continued excellence. The increase will consist of a higher salary or pay rate within the range of the same classified salary group. A merit salary increase may not result in the employee's salary exceeding the maximum salary rate for the employee's salary group.

"One-Time Merit Payment"

Single payment to an employee that does not change the employee's base salary.

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"Promotion"

Change in the duty assignment of an employee from one classified position to another classified position that: (a) is in a higher salary group with at least a 3% salary increase into or within Salary Schedule A or at least a 3.4% salary increase into or within Salary Schedule B; (b) requires higher qualifications, such as greater skill or longer experience; and (c) involves a higher level of responsibility.

"Reclassification"

Position change to another title in the position classification plan: (1) in response to a classification review of the following specifications: title, salary group, classification number, hazardous duty pay or longevity pay status, unit-based classification, and Fair Labor Standards Act exempt or non-exempt (overtime eligibility) status; or (2) as a result of a program reorganization by the executive director or designee to properly classify a position and define its duties based on the duties performed by an employee holding the position. A reclassification does not mean the employee's duties will change. A reclassification may take effect at any time.

Discussion

In addition to merit salary increases, or one-time merit payments, other methods of recognizing exceptional job performance, performance of notable deeds, and other commendable actions are available through a division, a unit, or the department employee recognition program and through administrative leave for outstanding performance in accordance with PD-53, "Employee Awards and Recognition."

Procedures

- I. General Provisions
 - A. Merit salary increases and one-time merit payments allow management to recognize an employee whose job performance and productivity are consistently above what is normally expected or required, as reflected on the employee's current annual performance evaluation.
 - B. Merit salary increases allow management to correlate the employee's performance level with a more appropriate pay rate.
 - C. Merit salary increases and one-time merit payments will be applied throughout the range of the Salary Schedules A and B salary groups used by the TDCJ.

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- D. Merit salary increases and one-time merit payments are not automatic, and eligibility or recommendation for a merit salary increase or a one-time merit payment is not a guarantee of receiving such an increase or one-time payment. Merit salary increases and one-time merit payments are contingent upon the availability of funds and the approval of administrative authorities.

II. Eligibility

- A. A classified employee may be recommended for a merit salary increase or one-time merit payment if the following eligibility criteria are met:
 - 1. The employee holds a Salary Schedule A or B position;
 - 2. The employee has been employed with the TDCJ for at least 36 continuous months since most recent hire date and has held the employee's current position for at least six continuous months. Any full calendar month of leave without pay will not count toward the continuous service requirement;
 - 3. The employee is not on disciplinary probation;
 - 4. The employee is not eligible to receive a promotion or salary rate adjustment in any career path or career ladder system, such as correctional officer, supervisor of correctional officer, food service manager, laundry manager, or parole officer;
 - 5. The employee is not performing a temporary assignment for which a salary rate increase has been authorized by the executive director, in accordance with PD-93, "Employee Classification";
 - 6. Within the last six months, the employee has not received any of the following payroll actions:
 - a. Promotion, including a career path promotion;
 - b. Advancement through the career ladder system;
 - c. Merit salary increase or one-time merit payment;
 - d. Demotion; or
 - e. Position upgrade through a reclassification, which resulted in a salary rate increase;
 - 7. The employee is below the maximum salary rate of the employee's salary group; and

8. The employee's current annual performance evaluation includes the following, which reflect that the employee's job performance and productivity level are consistently above what is normally expected or required:
 - a. A minimum rating of "somewhat exceeds standards" in all areas being evaluated, including the supervisory functions area if the employee is a supervisor;
 - b. A rating of "exceeds standards" in at least 50% of the areas considered essential functions; and
 - c. An indication that the employee adheres to ED-10.61, "TDCJ Safety Policy."
- B. If an employee transferred from a position exempt from the *State of Texas Position Classification Plan* to a classified position within the current fiscal biennium, the employee is not eligible to receive a merit increase that would cause the employee's salary to exceed the applicable salary limitation identified in PD-72, "Employee Salary Administration."

III. Recommendation

- A. An employee's manager or supervisor shall initially recommend an eligible classified employee for a merit salary increase or one-time merit payment.

If the warden, department head, or parole assistant regional director agrees with the recommendation, they shall complete a PERS 393, Recommendation for Merit Salary Increase. The PERS 393 shall be forwarded through the division's chain of supervision to the appropriate regional director or manager.

- B. A copy of the employee's current annual performance evaluation shall be attached to the PERS 393 when it is forwarded for approval. The employee's current annual performance evaluation shall have been completed within the 12-month period preceding the date of the merit recommendation.

IV. Approval Process

- A. A PERS 393 may only be approved by the appropriate regional director or manager and division director.

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- B. Upon approval by the regional director or manager and division director, the recommendation shall be forwarded to the human resources director. The human resources director or designee shall:
 - 1. Verify the recommended employee meets the eligibility criteria; and
 - 2. Monitor all recommendations to determine whether they are representative of the TDCJ's Salary Schedule A and B salary groups.
- C. Once the human resources director or designee has confirmed the employee's eligibility, the recommendation shall be forwarded to the chief financial officer (CFO). The CFO shall confirm budget availability and determine the earliest date the merit increase or one-time merit payment may be effective.

Approved merit increases, and one-time merit increases may be distributed throughout the fiscal year in a staggered manner to ensure a fair and effective distribution. In such cases, the distribution will be prioritized based on the months of state service. All approved merit increases or one-time merit payments shall be awarded within the same fiscal year they were approved.

- D. After the CFO has confirmed budget availability, the recommendation shall be forwarded to the executive director for approval.

V. Recommendation Approved

After the PERS 393 has been approved by the executive director, the recommendation shall be returned to the originating warden, department head, or parole assistant regional director. Upon receipt of the approved recommendation, the warden, department head, or parole assistant regional director shall provide the original recommendation to the human resources representative.

For merit salary increases, the human resources representative shall enter the Payroll Status Change (PSC) in the TDCJ Payroll/Personnel System Payroll Status Change Update screen in accordance with PD-72 and the Payroll Effective Dates and Timeframes for PSC Entry/Approval table and submit the original approved recommendation to the Payroll Department. The payroll effective date shall be the first calendar day of a month and on or after the payroll effective date indicated on the approved PERS 393.

For one-time merit payments, the human resources representative shall forward the approved recommendation to the Payroll Department for

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processing. The payroll effective date shall be the first calendar day of a month and on or after the payroll effective date indicated on the approved PERS 393.

VI. Employee Ineligibility After Approval

A PERS 393 and any approvals are considered null and void if the employee is placed on disciplinary probation or becomes ineligible for a merit salary increase or one-time merit payment for any reason on or before the payroll effective date. If an employee commits a rule violation after the payroll effective date of the merit salary increase, the merit salary increase or one-time merit payment may be withdrawn in accordance with PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees."

VII. Recommendation Not Approved

If a PERS 393 is not approved, the recommendation shall be returned to the originating warden, department head, or parole assistant regional director through the appropriate channels. If the employee is ineligible or if funds are not available, the returned recommendation shall indicate this information.

VIII. Employee Notification

- A. An employee may not be notified that the employee has been recommended for a merit salary increase or one-time merit payment.
- B. Upon approval, the method of employee notification may be determined by the division director or designee.

IX. Forms/Documents

- A. [PERS 393, Recommendation for Merit Salary Increase](#)

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