State of Wisconsin

OFFICE OF STATE EMPLOYMENT RELATIONS

– COMPENSATION & LABOR RELATIONS BULLETIN –

Date: May 23, 2014

Locator No: OSER-0364-CLR/PP

Subject: Processing July 13, 2014, and Future Merit Pay Progression Increases for Certain Classified and Unclassified Attorneys

The information in this bulletin is provided to assist appointing authorities in determining eligibility and processing discretionary merit pay progression increases for eligible attorneys, initially effective July 13, 2014, and continuing indefinitely thereafter, in accordance with the provisions of s. 230.12 (10), (11), and (12), Wis. Stats., and Section C, 3.00, of the Compensation Plan. This bulletin addresses merit pay progression only, and does not provide information on other pay adjustments that may be available through the Compensation Plan, labor agreement, statute, or administrative code.

SECTION I. ELIGIBLE ATTORNEYS

Employees in the following attorney classifications or unclassified job titles are eligible:

Class Code	Classification or Title	Source of Eligibility
97960	Assistant District Attorney	s. 230.12 (10), Wis. Stats.
97990	Deputy District Attorney	s. 230.12 (10), Wis. Stats.
97991	Deputy District Attorney Supervisor	s. 230.12 (10), Wis. Stats.
97800	Assistant State Public Defender Attorney	s. 230.12 (11), Wis. Stats.
97810	Asst State Public Defender Attorney Confidential	Section C, Compensation Plan
97830	Asst State Public Defender Attorney Conf/Supv	Section C, Compensation Plan
97840	Asst State Public Defender Attorney Management	Section C, Compensation Plan
97820	Asst State Public Defender Attorney Supervisor	Section C, Compensation Plan
30200	Assistant Attorney General	s. 230.12 (12), Wis. Stats.
30210	Assistant Attorney General-Confidential	s. 230.12 (12), Wis. Stats.
30240	Assistant Attorney General-Management	s. 230.12 (12), Wis. Stats.
30220	Assistant Attorney General-Supervisor	s. 230.12 (12), Wis. Stats.

SECTION II. ELIGIBILITY FOR MERIT PAY PROGRESSION

A. Merit Pay Progression Awards Effective the First Pay Period Beginning On or After July 1 of 2014 and Each Subsequent Year

Initially effective on July 13, 2014, and effective in subsequent years on the first day of the first pay period that begins on or after July 1, attorneys in pay status in an eligible classification or title who have served with their current agency in an eligible classification or title for a continuous period of 12 months or more as of the effective date ***may,*** at the discretion of their appointing authority, be paid an

hourly salary at any step, or part thereof, above their hourly salary on the immediately preceding June 30, subject to E., below. Increases shall be based entirely on merit. Attorneys already paid the maximum hourly rate (pay range maximum) are not eligible for a base-building merit pay progression adjustment. (See Section C of the Compensation Plan for provisions which may provide a lump sum payment to attorneys in pay progression-eligible positions who are at the pay range maximum.)

Note. In each year, the availability of funding will be a primary consideration in determining whether merit pay progression adjustments will be provided and in what amounts.

B. Merit Pay Progression Awards Effective Upon Attainment of 12 Months of Continuous Service

Effective July 14, 2014, and continuing indefinitely thereafter, attorneys in pay status in an eligible classification or title who initially attain a continuous period of 12 months of service in their current agency in one or more of the eligible titles ***may,*** at the discretion of their appointing authority, be paid an hourly salary at any step, or part thereof, above their hourly salary on the immediately preceding June 30, subject to E., below. Increases shall be based entirely on merit. Any such increase will be effective the first day of the pay period that begins on or after the date the employee attains 12 months of continuous service. Attorneys already paid the maximum hourly rate (pay range maximum) are not eligible for a merit pay progression adjustment.

C. Fiscal Year Increase Limit

1. No attorney may receive a merit pay progression salary increase that exceeds 10 percent of his or her base pay rate during a fiscal year. The 10 percent limit will be based on the attorney's pay rate at the time the merit increase is applied. For the purpose of merit pay progression, a fiscal year shall be the period commencing July 1 and ending the subsequent June 30.

Example: An attorney attains 12 months of continuous service and receives merit pay progression effective June 29, 2014, with an increase from $23.673 to $25.646 per hour (about 8.3%). Because this increase was effective before July 1, 2014, it is considered to be an increase for the fiscal year ending June 30, 2014. The next pay period, beginning July 13, 2014, is a new fiscal year and the attorney is therefore eligible to be considered for a merit pay progression increase of up to 10% of the attorney's pay rate on that date, July 13, 2014.

2. If the first pay period following attainment of 12 months of continuous service by an attorney coincides with the first pay period beginning on or after July 1, the attorney is limited to a total merit increase of up to 10% of the attorney's base pay rate. In other words, an attorney may ***not*** receive up to 10% for the attainment of 12 months of continuous service plus up to 10% for annual merit pay progression in the same fiscal year.

3. The 10 percent per fiscal year limit is for the merit pay progression increase only, and does not include other non-merit progression increases that may be awarded through the Compensation Plan, labor agreement, statute, or administrative code.

D. Interpreting "A Continuous Period of 12 Months of Service"

1. Under each statutory section (s. 230.12 (10), (11), and (12), Wis. Stats.) the possibility of a merit pay progression increase is in relation to an attorney's pay rate on the immediately preceding June 30. Therefore, to be eligible for merit pay progression, an attorney must have been in employment status in a progression-eligible position (listed in Section I. of this bulletin) on the immediately preceding June 30. (The definition of employment status is found at s. ER 18.01 (3), Wis. Adm. Code.) Employment in a progression-eligible position on the immediately preceding June 30 may be in a different agency provided that the attorney has attained a continuous period of 12 months of service in the agency in which *currently* employed under the conditions described in 2. through 6., below.

2. An attorney is eligible if the attorney has served in an eligible classification or title for a continuous period of 12 months in the agency in which currently employed. The continuous period of 12 months of service need not be the immediately preceding 12 months. This means that the service may be from a prior year in the same appointment or from a previous appointment in the same agency, provided that the attorney's continuous service was not reset to zero since the prior period of 12 months of continuous service, and provided that the attorney was in employment status in a progression-eligible position on the immediately preceding June 30, per 1., above.

3. An eligible attorney may have served in more than one classification or unclassified job title during the continuous 12 month period, provided that each classification or title held in the 12 month qualifying period was one of the eligible classifications or titles listed in Section I., above, and within the same agency in which currently employed.

4. Time on an approved leave of absence will not count towards a continuous period of 12 months of service, even if the attorney remains in employment status during the leave. However, periods of service immediately before and after an approved leave of absence may be added together to attain "a continuous period of 12 months." For example, if an attorney works four months, goes on medical leave for three months, then returns to work for eight months, the four months prior to the medical leave and eight months following medical leave are added together to total a continuous period of 12 months. **Exception**: In the special case of timely reemployment after a military leave of absence, the entire period of military leave is deemed to be uninterrupted continuous service with the state and will count towards the continuous period of 12 months of service.

5. If an attorney terminates state service before attaining "a continuous period of 12 months of service" as described in 2. through 4., above, upon rehire, the attorney starts over with no credit from past employment towards the continuous period of 12 months of service. However, if the attorney did attain "a continuous period of 12 months of service" as described in 2. through 4., above, prior to termination and is rehired under conditions where the attorney receives continuing state service credit for that prior period of employment, then that attorney has attained eligibility for merit pay progression. However, the attorney must still also have been in employment status on the immediately preceding June 30 in a progression-eligible position, per 1., above. (As a consequence, former district attorneys, judges, or justices hired under provisions that give credit for prior service in setting pay upon appointment are not eligible for merit pay progression unless, or until, they have met the requirement of a continuous period of 12 months of service in a progression-eligible position in the agency in which currently employed.)

6. If a former state employee is rehired under conditions such that the attorney does not receive continuous service credit for his/her former state employment, the attorney likewise will receive no credit from the former employment towards qualifying for merit pay progression, regardless of the length of the former service.

E. No Pay Decrease on Progression Placement

No attorney will receive a pay decrease as a result of merit pay progression provisions. For example, if an attorney has had an intervening pay increase since the immediately preceding June 30, and, as a result, could conceivably receive a pay decrease if placed at a pay rate above his/her hourly salary on the immediately preceding June 30, the attorney's pay rate upon eligibility for merit pay progression will not be set below his/her current pay rate.

SECTION III. ORDER OF PAY ADJUSTMENTS ON THE SAME DATE

Merit pay progression will be considered a progression adjustment for determining the order of multiple pay transactions on the same date. Refer to Section I, 4.01 of the Compensation Plan, for the order of multiple pay adjustments on the same date.

SECTION IV. REFERRAL OF QUESTIONS

Employee Questions: Employees with questions regarding their pay rates or pay adjustments included in this bulletin should contact their agency Human Resources or Payroll Office directly.

Employer Questions: Employer questions regarding the *pay provisions* contained in this bulletin should be directed to:

John Wiesman at John.Wiesman@Wisconsin.gov or by phone at (608) 266-1418
Paul Ostrowski at Paul.Ostrowski@Wisconsin.gov or by phone at (608) 267-0343; or
Lynn Maulbetsch at Lynn.Maulbetsch@Wisconsin.gov or by phone at (608) 267-5164.

Employer questions regarding ***payroll processing or file maintenance*** should be directed to DOA Central Payroll: Sandy Karnovsky at (608) 264-9571.

Kathy Kopp

Kathy Kopp, Administrator
Division of Compensation and Labor Relations