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Date: Wed, Nov 9, 2016 at 10:58 AM

Subject: Proposed rules feedback

To: Kim Burgess - DPA <kim.burgess@state.co.us>

Kim,

Thanks for sending out the preliminary rules. I read them and thought I would provide some informal feedback. Hope it helps. - Jennifer

Chapter 3:

This is a good step forward. It's a nice addition to the options we already have and it is in line with the way that things are currently applied and implemented.

Is there any way we can take this a step further and open more possibilities that might exist and are not covered under the heading of competencies?

One possibility would be a credential, such as a license, certification or degree. I think in many fields, ours included, a certification does not represent that a person has gained more competencies, but rather they have done some act, such as passing a test, that recognizes the competencies they already possess. Similarly, an employee who earns a bachelor's degree during employment might be seen as a more valuable and accomplished employee, deserving of a modest base building increase. Along these lines, I'm not sure that this is the type of situation where the achievement would need to have been defined in advance with a specifically defined deadline. I see this as something that might be in a list of items that are completely at the manager's (appointing authority's) discretion, available when a pay increase is deemed warranted.

Another option I wonder if we can consider is the ability to increase pay in order to maintain an employee's exempt FLSA status. I believe that businesses are using this practice for positions that meet the duties test and fall below the minimum. Assuming this minimum is going to increase over the years, it might be a good, fiscally prudent decision to make a modest increase to base pay in order to mitigate overtime or comp time. Whether a rule was specific to this purpose or had language to the effect of "a legitimate business purpose that warrants a salary increase," I think this might be the kind of flexibility our system lacks.

Delayed Promotional Increase - Is it possible to allow for this in the case of a transfer or even demotion? I believe the same logic applies that when moving someone to a new role, the unavailability of funds or the uncertainty of performance might warrant placing some of the potential increase in this delayed status, subject to the employee's performance. Agencies that use transfer and voluntary demotion to fill vacancies might be able to use this more often if it included those options.

Chapter 5

5-18 Parental Academic leave - It looks like the time period was removed, relating the 18 hours of leave to an academic year. Is the 18 hours per fiscal year? One might read it as in the life of employment, which probably is not the intent.