Michigan Civil Service Commission

REGULATION

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Subject:

PERFORMANCE-PAY PROGRAMS

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1. PURPOSE

This regulation establishes the standards for performance-pay programs. Eligibility for a performance-pay award is based upon evaluation of the performance of an individual, a team of eligible individuals, or an entire agency. The agency's ability to pay may be considered in setting performance-pay award amounts.

2. CIVIL SERVICE COMMISSION RULE REFERENCE

NOTE: This Section 2 reprints only selected Commission Rules for quick reference by the reader. Additional Rules (that are not reprinted below) may apply. The complete, current version of the Rules can be found at www.michigan.gov/mdcs.

Rule 2-3 Performance Ratings

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2-3.3 Annual Ratings

* * *

(c) Performance-pay program ratings and actions.

* * *

(4) Grievances regarding other performance-pay actions. *Performance-pay awards are discretionary. An employee is not authorized to grieve or appeal a performance-pay action unless a grievance or an appeal is specifically permitted in this rule or the applicable regulations.*

(A) Grievance permitted. *An employee aggrieved by any of the following performance-pay actions may file a grievance as authorized in rule 8-1 [Grievances] and the applicable regulations:*

(1) *The employee's pay is reduced.*

(2) *The appointing authority does not rate the performance of the employee at least once annually.*

(3) *The performance-pay action is alleged to violate rule 1-8 [Prohibited Discrimination] or rule 2-10 [Whistleblower Protection].*

(B) Grievance prohibited. *Except as expressly authorized in subsection (c)(4)(A), the employee cannot grieve a final performance-pay decision of the appointing authority. By way of example only, the following performance-pay actions cannot be grieved:*

(1) *The amount of a performance-pay award.*

(2) *The failure to receive a performance-pay award.*

(3) *The distribution of a performance-pay award between a base salary adjustment and a lump sum award.*

(4) *The performance evaluation or performance-pay award of another employee.*

(5) *The decision to include a position in, or exclude a position from, a performance-pay program.*

(6) *The performance-pay program itself, including, for example, the performance standards, agency evaluation methods, rating categories, and agency salary-range subdivisions.*

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Rule 4-6 Senior Executive Service (SES)

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4-6.2 Conditions of Employment

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(e) Reappointment.

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(4) Improper Classification*. If civil service staff determines that a senior executive service position is not properly classified, an appointing authority cannot appoint or reappoint any person to the position or execute a senior executive service position agreement for the position until civil service staff has approved an updated position description and properly classified the position.*

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Rule 4-7 Senior Executive Management Assistant Service (SEMAS)

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4-7.2 Conditions of Employment

* * *

(e) Reappointment.

* * *

(4) Improper Classification. *If civil service staff determines that a senior executive management assistant service position is not properly classified, an appointing authority cannot appoint or reappoint any person to the position or execute a SEMAS agreement for the position until civil service staff has approved an updated position description and properly classified the position.*

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Rule 5-3 Compensation Schedules

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5-3.2 Agency Salary-range Subdivisions

An appointing authority, with the prior written approval of the state personnel director, may implement agency salary-range subdivisions within a salary range. A salary-range subdivision must fall within the range of rates of compensation approved by the civil service commission for the classification. The salary-range subdivision must be based

on relevant, job-related agency considerations, such as job complexity, level of responsibility, market conditions, or reporting relationships. The appointing authority shall publish all approved salary-range subdivisions for its affected employees.

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5-3.4 Operation of Compensation Schedules

An employee in the classified service cannot be paid less than the minimum nor more than the maximum authorized in the compensation plan, unless authorized by the state personnel director.

(a) ***Initial appointment.*** *On initial appointment, an employee is paid the minimum salary step in the salary range unless the appointing authority chooses to pay a higher initial salary as authorized in the compensation plan.*

(b) ***Schedules with steps.*** *If the compensation plan creates steps in the pay range, an employee receives pay increases in the amounts and at the intervals provided for in the compensation schedule for the employee's classification level. An employee under an* unsatisfactory *probationary, interim, or follow-up rating is not eligible for a step increase.*

(1) ***Effective date.*** *Any pay increase is effective at the beginning of the first pay period after the employee becomes eligible.*

(2) ***Advancement.*** *An employee advances in pay by successive steps of the pay range for the employee's classification level, as provided in the compensation plan, unless a special increase is granted in accordance with the compensation plan.*

(3) ***Reduction of pay.*** *An appointing authority may, for cause, reduce the pay of an employee receiving more than the minimum step for the classification level.*

(4) ***General schedule revision.*** *If the compensation schedule is amended, an employee is paid at the salary step corresponding in length of service to the step at which that employee was being paid in the previous salary range for the classification level.*

(c) ***Performance-pay programs.***

(1) ***Salary range.*** *For each class of positions in a performance-pay program, the civil service commission shall approve a salary range that includes (1) a minimum point, (2) one or more control points, and (3) a maximum point:*

(A) ***Minimum point.*** *The minimum point is the lowest base salary payable to an employee in the classification.*

(B) ***Control point.*** *The control point is the highest base salary payable to an employee in the classification.*

(C) ***Maximum point.*** *The maximum point is the maximum total salary, including both base salary and any lump sum awards, payable to an employee in the classification during a fiscal year.*

(2) Performance-pay awards.

(A) Awards authorized. *If an employee's position is included in a performance-pay program, the appointing authority, with the approval of the state personnel director, may award the employee an increase in base salary or a lump sum award, or both, in accordance with the compensation plan. The director may set limits on the amount of performance pay that may be awarded in a fiscal year.*

(B) Performance ratings.

(1) *If the employee receives a* needs improvement *annual rating or an* unsatisfactory *interim or follow-up rating, the employee is not eligible for a base salary or lump sum award.*

(2) *If the employee receives an* unsatisfactory *interim or follow-up rating, the appointing authority may reduce the employee's base salary in accordance with the compensation plan.*

(d) Conversion of performance-pay schedule to step schedule. *If a classification is converted from a performance-pay schedule to a schedule with steps, an employee whose position is converted must be placed at a step at least equal to the employee's base salary under the performance-pay plan at the time of conversion in accordance with the regulations.*

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3. DEFINITIONS

A. Civil Service Commission Rule Definition

Performance-pay program *means a compensation system in which the state personnel director, on request of an appointing authority, adjusts individual compensation on the basis of individual and group performance evaluations, individual competencies, agency objectives, agency budget, and other job-related factors. The primary purpose of a performance-pay program is to recognize, reward, and encourage exceptional individual and group performance.*

4. STANDARDS

A. Scope.

The Civil Service Commission has established performance-pay programs for employees in designated classifications. Performance-pay programs consist of base salary and lump sum awards to be administered within established pay ranges in accordance with regulations approved by the State Personnel Director.

B. Salary Range.

The Civil Service Commission fixes the range of rates of compensation for all classifications.

1. **Classification Ranges.** The Civil Service Commission, for each classification level in a performance-pay program, fixes a salary range that consists of (1) a minimum point, (2) a control point, and (3) a maximum point.
2. **Agency Salary-range Subdivisions.** As authorized in rule 5-3.2, an appointing authority may establish one or more salary-range subdivisions within a class salary range established by the Civil Service Commission. Each salary-range subdivision must have a subdivision control point (a base-pay ceiling) that is less than the control point of the class. An appointing authority may propose a salary-range subdivision to Civil Service. Civil Service reviews the proposal and approves or denies the request. If Civil Service approves a salary-range subdivision, the appointing authority must give notice of the subdivision to each employee whose position is subject to the limits of the subdivision.

C. Performance-Pay.

The appointing authority may grant a performance-pay award in accordance with the standards of this regulation. A performance-pay award may consist of a base salary increase, a lump sum award, or a combination of the two.

1. **Base Salary Increase.** An employee may receive an increase in base salary up to the lower of (1) the control point for the class or (2) any applicable base ceiling if the employee's position is subject to an approved salary-range subdivision.
2. **Lump Sum Award.** An employee may receive a lump sum award not to exceed the difference between the control point and the maximum point. If the employee's base salary is below the control point or any applicable base pay ceiling, the employee may receive both a lump sum award and an increase in base salary. If the employee's base salary is at the control point or any applicable base pay ceiling, a performance award must be granted in a lump sum only.
3. **Other Performance-Pay Conditions.**
   a. The total base salary and lump sum awards received by an employee in any fiscal year must not exceed the maximum point of the salary range.
   b. The minimum point of the salary range is the lowest base-pay salary for an individual appointed, reclassified, or converted to a classification in the performance-pay program.
   c. An employee's base salary must not exceed the lower of (1) the control point or (2) any applicable base pay ceiling if the employee's position is subject to an approved salary-range subdivision.
   d. The total lump sum award received by an employee in any one fiscal year must not exceed the amount of the difference between the control point and the maximum point.
   e. An employee must receive a performance rating of "meets expectations," "high performing," or other equivalent satisfactory rating before receiving any performance-pay award.

f. If an employee receives an "unsatisfactory" probationary, interim, or follow-up rating, the employee's base salary may be reduced. The employee's base salary may be reduced by up to **5 percent** of the base salary in any one fiscal year, unless a different percentage limit is specified for the particular class or group.

g. **Approval Required.** Each initial rate of pay and each subsequent performance-pay action for employees in the Senior Executive Service (SES), ECP Group 4, and the Senior Executive Management Assistant Service (SEMAS) requires prior review and approval by the State Personnel Director.

(1) **Request for Approval of Appointment or Reappointment Pay Rates.** The appointing authority must submit a request for pay approval to Civil Service for all appointments and lateral job changes to SES, ECP Group 4, and SEMAS positions, certifying that a performance management plan is in place for the employee. If the position is in the SES or SEMAS, a limited-term appointment agreement and certification that Civil Service has reviewed and approved a current position description must be submitted with the request. Requests must be submitted before the close of the pay period in which the appointment or reappointment would be effective.

(2) **Request for Approval of Performance-Pay.** The appointing authority must submit a request for pay approval to Civil Service via the automated web-based approval process for all performance-pay base salary and lump sum awards for employees in SES, ECP Group 4, and SEMAS positions, certifying that a performance evaluation has been completed. Requests must be submitted within seven pay periods of the effective date of the performance evaluation. Base salary increase retroactivity may not exceed seven pay periods from the date of receipt of the request by Civil Service.

(3) **Approval of Pay Upon Appointment and Performance-Pay.** Civil Service shall issue approval or disapproval actions on properly documented appointment pay approval requests within five workdays of receipt and on performance-pay approval requests within ten workdays. Special extenuating circumstances may provide a basis for approval of retroactivity beyond seven pay periods. Any requests for consideration of extenuating circumstances must be approved by the State Personnel Director.

4. **Other Conditions Applicable to ECP Groups 1, 2, and 3 Employees.** The following limits on performance-pay apply to all nonexclusively represented employees in Groups 1, 2, and 3 of the Equitable Classification Plan:

a. An appointing authority must submit to the State Personnel Director a request to add or delete a classification to or from a performance management plan. All performance management plans, changes, and additions must be approved before implementation.

b. The maximum performance-pay increase or decrease in base pay in any one fiscal year must not exceed **5 percent** of the employee's prior base salary.

c. The total of all performance base pay increases and lump sum awards during any one fiscal year must not exceed **5 percent** of the employee's prior base salary.

5. **Other Conditions Applicable to SES, SEMAS, and ECP Group 4 Employees.** The following limits of performance-pay awards apply to all employees in the Senior Executive Service (SES), Senior Executive Management Assistant Service (SEMAS), and Group 4 of the Equitable Classification Plan (ECP):

a. The maximum performance-pay increase or decrease in **base pay** in any one fiscal year should not exceed **5 percent** of the employee's prior base salary.

b. The total of all performance base pay increases and lump sum awards during any one fiscal year must not exceed **10 percent** of the employee's prior base salary.

c. Any performance award in excess of **5 percent** of the employee's base salary should typically be in the form of a lump sum award. Before an award in excess of 5 percent of the employee's base salary or in excess of the "agency maximum lump sum amount" is approved, it must be submitted by the appointing authority to the State Personnel Director for review and approval under statewide performance criteria.

The following documentation must be submitted with each request:

(1) **A statement of support for the award from the agency director.** The statement should address the employee's accomplishments during the rating period, the importance of the employee's achievements to the agency's strategic goal attainment, and the effort or competencies applied by the employee to achieve positive results. In addition, if the agency is requesting that the performance award include a base pay increase in excess of 5%, the reason(s) why a base pay increase is warranted should be addressed. The statement may address other factors the director believes should be considered as the basis for an exceptional award.

(2) **The employee's performance standards and evaluation for the rating period.** A copy of the signed and dated performance evaluation form must be provided that includes the performance factors/objectives, the relevant competencies, and the supervisor's evaluation.

(3) **A completed request for pay approval form.** A Request for Pay Approval for SES/SEMAS and Group 4 Performance-Pay Program form (CS-1725) must be provided indicating the amount of the award requested. Civil Service staff notifies the appointing authority of approval or disapproval of the request.

6. **Other Conditions Applicable to Senior Attorneys.** The following limits on performance-pay awards apply to all ECP Group 2 attorneys in performance-pay classifications in the Department of Attorney General:

   a. The maximum performance-pay increase or decrease in base pay in any one fiscal year must not exceed **8 percent** of the employee's prior base salary.

   b. The total of all performance base pay increases and lump sum awards during any one fiscal year must not exceed **8 percent** of the employee's prior base salary.

7. **Working Out of Class Compensation in Performance-Pay Classifications.** ~~Sometimes an~~ An employee may be temporarily assigned to perform the duties and responsibilities of a properly classified position in a performance pay classification with a higher maximum salary rate or control point. In such circumstances, the employee's base salary rate must not exceed the midpoint between the employee's current base salary and the fixed control point or salary-range subdivisions of the temporarily assigned classification.

~~8. **FY 10-11 Limits.** Notwithstanding any other provision, no performance-pay increases can be awarded or approved on or between October 1, 2010, and December 31, 2010.~~

D. Performance Evaluations.

The appointing authority must evaluate and rate each employee in a performance-pay program at least once annually. The appointing authority may use any reasonable evaluation and rating methods. However, the appointing authority must report each performance evaluation to the State Personnel Director in the manner prescribed by the director to permit comparison across agencies.

1. **Plan for Agency-wide Evaluation of SES and ECP Group 4 Employees.** Each agency must have a plan on file with the State Personnel Director that addresses all of the following:

   a. The annual cycle for performance evaluation used by the agency, including common review dates, as appropriate, and a plan to convert to common dates,

   b. A process to ensure internal consistency of performance evaluations and pay recommendations,

   c. The number of rating categories used, and, if greater than three, how they will convert to the statewide reporting categories of high performing/exceeds expectations, meets expectations, and improvement expected/does not meet expectations and,

   d. Measures to ensure timely submission of performance-pay requests to Civil Service for approval.

2. **Performance Evaluation Documentation, Audit, and Reporting.** The appointing authority must document and retain for compliance audit by Civil Service, the performance plan and evaluation for all employees in a performance-pay program using the appropriate Civil Service Performance

Management and Competency Employee Rating form or other form approved by Civil Service. If an audit finds performance evaluation documentation is inadequate, the appointing authority will be required to submit performance evaluation documents to Civil Service in order to receive performance-pay approvals. The appointing authority must report each ECP Group 4, SES, and SEMAS employee rating to Civil Service via the automated web-based approval process when seeking performance-pay approval.

E. Salary Upon Appointment or Conversion to the SES or SEMAS.

Upon appointment or conversion to the SES or SEMAS, the base salary rate must be at or above the minimum point and must not exceed the control point. The first salary review may be given at the six-month period.

F. Salary Upon New Hire, ~~or~~ Promotion, or Conversion to a Performance-Pay Position in ECP Groups 1, 2, 3, or 4.

Upon new hire, ~~or~~ promotion, or conversion into an ECP Group 1 (NERE), Group 2 (NERE), Group 3, or Group 4 class, the base salary rate must not exceed the midpoint between the base salary rate received prior to the hire, ~~or the~~ promotion, or conversion and the control point of the range. If a salary-range subdivision applies, the base salary rate must not exceed the ceiling of the subdivision. The first salary review may be given at the six-month period. The State Personnel Director may authorize a higher starting rate upon application by the appointing authority. An appointing authority may authorize a higher rate without prior approval if any of the following apply:

1. There is difficulty in recruiting for the particular position.
2. The prospective employee is currently employed outside the classified service and a salary in excess of the midpoint formula is necessary to attract the prospective employee.
3. The prospective employee has special experience and/or education which should be well beyond the minimum qualifications contained in the specification for classification of the position.
4. The prospective employee is currently or was previously, a state employee, and has experience pertinent to the position.

Note: The appointing authority must document the reason for the higher starting rate when one of the above conditions applies. The documentation must be retained for audit purposes.

~~**G. Salary Upon Conversion to ECP Groups 1, 2, 3, or 4.**~~

~~Upon conversion to a performance-pay program class in ECP Group 1, 2, 3, or 4, the employee's current salary is maintained if it is at or above the minimum point of the range. If the employee's pre-conversion salary is below the minimum point, the salary is set at the minimum point. The employee may be eligible for a performance review and a merit increase at the six-month point.~~

~~H~~G. Salary Upon Reclassification from Staff Attorney to Senior Attorney.

Upon reclassification from Staff Attorney to Senior Attorney, the base salary rate must not exceed the midpoint between the base salary rate received prior to the

reclassification and the control point of the Senior Attorney range, or 8% above the base salary rate received prior to the reclassification, whichever is greater.

~~I.~~H Salary Upon Reclassification From a Performance-Pay Classification to Another Performance-Pay Classification With a Higher Control Point.

Upon reclassification within the performance-pay program, the base salary rate must not exceed the midpoint between the base salary received prior to the reclassification and the control point, or ceiling of the salary-range subdivision of the new salary range.

~~J~~I. Effect of Position Freeze.

An employee occupying a position frozen for classification or level in a performance-pay program classification must receive annual performance evaluations, but is not eligible to receive a base pay increase unless the maximum salary rate of the proper classification if a step and grade classification, or the control point of the proper classification if a performance-pay classification, exceeds the employee's base salary rate. An employee occupying a frozen position is otherwise eligible to receive lump sum performance awards.

~~K~~J. General Salary Increases.

The general pay adjustment is based on the employee's base salary on the effective date of the general pay adjustment.

~~L~~K. Salary Upon Conversion from Performance-Pay Schedule to Step Schedule.

If the State Personnel Director approves the conversion of an entire class or part of a class from a performance-pay schedule to a schedule with steps, the employee is placed at a pay step at least equal to the employee's base salary under the performance-pay plan at the time of conversion. The employee's hours since last step are set to reflect the number of hours in pay status since the effective date of the last performance evaluation, which must be less than 2,080 hours. If the employee served less than 2,080 hours in the position and has not received a performance evaluation, the hours since last step are set to reflect the number of hours in pay status in the position.

~~M~~L. Exceptions.

1. Exceptions to the standards for non-exclusively represented employees may be requested by the appointing authority.
2. Written requests should be submitted to the State Personnel Director.
3. Exceptions can only be approved by the State Personnel Director.

CONTACT

Questions regarding this regulation should be directed to Compensation, Civil Service Commission, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909; by telephone, at 517-335-7862 or 1-800-788-1766; or by e-mail to MCSC-Compensation@michigan.gov.