

# Michigan Civil Service Commission

## Regulation 5.07

<b>Subject:</b>		
<b>Performance-Pay Programs</b>		
<b>SPDOC No.:</b> <del>16-06</del> <a href="#">XX-XX</a>	<b>Effective Date:</b> January 1, <del>2017</del> <a href="#">2019</a>	<b>Replaces:</b> Reg. 5.07 (SPDOC <del>14-09, August 31, 2014</del> <a href="#">16-06, January 1, 2017</a> )

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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~~[on](#) 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. CSC Rule References

### ~~2-3—Performance Ratings~~

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### ~~2-3.3—Annual Ratings~~

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#### ~~(c) Performance pay program ratings and actions.~~

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~~(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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### 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. Definition

#### A. CSC Rule Definition.

1. **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~~ 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~~ commission fixes the range of rates of compensation for all classifications.

1. **Classification Ranges.** ~~The Civil Service Commission, for~~ For each classification level in a performance-pay program, the commission fixes a salary range ~~that consists of (1) a~~ with minimum ~~point,~~ point, ~~(2) a~~ control ~~point,~~ point, and ~~(3) a~~ maximum ~~point~~ points.
2. **Agency Salary-range Subdivisions.** As authorized in rule 5-3.2, an appointing authority may ~~establish~~ ask Civil Service to approve one or more salary-range subdivisions within a class salary range established by the ~~Civil Service Commission.~~ commission. Each salary-range subdivision must have a subdivision control point (i.e., a base-pay ceiling) that is less than the class's 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.~~ The appointing authority shall give notice of ~~the~~ an approved subdivision to each employee whose position is subject to ~~the~~ its limits ~~of the subdivision.~~

### C. Performance-Pay.

The appointing authority may grant a performance-pay award in accordance with ~~the standards of~~ this regulation. The agency's ability to pay may be considered in setting performance-pay award amounts. A performance-pay award may consist of a base salary increase, a lump-sum award, or ~~a combination of the two~~ both.

1. **Base-Salary Increase.** An employee may receive an increase in base salary up to the lower of (1) the class's control point ~~for the class~~ or (2) any applicable base ceiling ~~if the employee's position is subject to~~ under an approved salary-range subdivision.
2. **Lump-Sum Award.** An employee may receive a lump-sum award that does 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 ~~can~~ receive both a lump-sum award and ~~an~~ a base-salary increase ~~in base salary.~~ If the employee's base salary is at the control point or any applicable base ~~pay~~ ceiling, ~~a performance~~ the employee can only receive a lump-sum award ~~must be granted in a lump sum only.~~

### 3. Other ~~Performance-Pay~~ Conditions.

- a. The total of an employee's lump-sum awards and base salary ~~and lump-sum awards received by an employee in any~~ in a fiscal year ~~must not~~cannot exceed the salary range's maximum point ~~of the salary range~~.
  - b. The salary range's 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~~cannot exceed the lower of (1) the control point or (2) ~~any~~ applicable base ~~pay~~ ceiling ~~if the employee's position is subject to~~under 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," "a high performing," or other~~an equivalent satisfactory performance 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~~ % in a fiscal year, unless a different ~~percentage~~ limit is specified for ~~the particular~~a class or group.
  - f. The maximum performance-pay increase or decrease in base salary in any fiscal year cannot exceed 5% of the employee's prior base salary.
  - g. ~~Approval Required.~~ Each initial pay rate ~~of pay~~ and each subsequent performance-pay action for employees in the Senior Executive Service (SES), Equitable Classification Plan (ECP) Group 4, and ~~the~~ Senior Executive Management Assistant Service (SEMAS) requires the director's 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~~transfers 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~~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~~ends when the appointment or reappointment would be effective.

- (2) **Request for Approval of Performance-Pay.** ~~The~~ An appointing authority must ~~submit a~~ request ~~for~~ pay approval to Civil Service ~~via~~ by 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 ~~twelve~~ 12 months of the performance evaluation's effective date ~~of the performance evaluation.~~ ~~Base-~~ Retroactive base-salary ~~increase~~ retroactivity may not ~~increases cannot~~ exceed seven pay periods from ~~the date of Civil Service~~ receipt of the request ~~by Civil Service.~~
- (3) **Approval of Pay Upon Appointment and Performance-Pay.** Civil Service shall ~~issue approval~~ approve or ~~disapproval actions on~~ disapprove properly documented appointment-~~pay~~ approval requests within ~~five workdays~~ 7 days of receipt and ~~on~~ performance-pay approval requests within ~~ten workdays~~ 14 days. Special extenuating circumstances may provide a basis for retroactive approval ~~of retroactivity~~ beyond seven pay periods. ~~Any requests~~ The director must approve any request for consideration of extenuating circumstances ~~must be approved by the State Personnel Director.~~
4. **Other Conditions Applicable to ~~for~~ ECP Groups 1, 2, and 3 ~~Employees~~.** The following limits on performance-pay apply to ~~all nonexclusively represented~~ employees in ECP Groups 1, 2, and 3 ~~of the Equitable Classification Plan:~~
- An appointing authority must submit to the ~~State Personnel Director~~ 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.
  - The ~~maximum~~ total of all performance base-pay ~~increase or decrease in base pay~~ in increases and lump-sum awards during any one fiscal year ~~must not~~ cannot exceed ~~5 percent~~ % of the employee's prior base salary.
  - ~~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 ~~for~~ SES, SEMAS, and ECP Group ~~4~~ ~~Employees~~.** The following limits ~~of~~ on performance-~~pay~~ awards apply to ~~all~~ employees in the ~~Senior Executive Service (SES), Senior Executive Management Assistant Service (SEMAS),~~ and ECP Group 4 ~~of the Equitable Classification Plan (ECP):~~
- ~~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.~~
  - ~~a.~~ The total of all performance base pay increases and lump sum awards during ~~any~~ one a fiscal year ~~must not~~ cannot exceed ~~10 percent~~ % of the employee's prior base salary.

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

~~The~~ with 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~~ If a base pay-salary increase in excess of over 5%,% is requested, the ~~reason(s)~~ amount sought and why ~~a~~ the base ~~pay-salary~~ increase is warranted ~~should~~ must also be addressed. The statement may address other factors the agency 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 ~~/~~ and 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 for 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 paysalary in ~~any one~~ a fiscal year ~~must not~~ cannot exceed 8-~~percent~~ % of the employee's prior base salary.
  - b. The total of all performance base ~~pay-salary~~ increases and lump-sum awards during ~~any one~~ a fiscal year ~~must not~~ cannot exceed 8-~~percent~~ % of the employee's prior base salary.
7. ~~Working Out of Class~~ Compensation in Performance-Pay Classifications. 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~~ cases, the employee's

base salary ~~rate must not~~cannot exceed the midpoint between the employee's current base salary and the fixed control point or salary-range subdivisions of the temporarily assigned classification.

#### 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~~ but must report each performance evaluation to the ~~State Personnel Director in the manner prescribed by the director~~ to permit comparison across agencies as required.

1. ~~Plan for Agency-wide Evaluation of SES and ECP Group 4 Employees.~~ Plan. Each agency must ~~have~~ establish a plan on file with the State Personnel Director that addresses all of the following:
  - a. ~~The~~ an 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~~ 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. ~~M~~ and m measures to ensure timely submission of performance-pay requests to Civil Service for approval.
2. **Performance Evaluation Documentation, Audit, and Reporting.** ~~The~~ For audit by Civil Service, 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~~ agency form approved by Civil Service. If an audit finds ~~performance evaluation~~ inadequate 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~~ by 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~~ cannot be ~~at or above~~ below the minimum point ~~and must not exceed~~ or above the control point. The first salary review may be given ~~at the~~ after six ~~month period~~ months.

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

Upon new hire, promotion, or conversion into an ECP Group 1-~~(NERE)~~, Group 2-~~(NERE)~~, Group 3, or Group 4 class, the base salary ~~rate must not~~cannot exceed the midpoint between the base salary ~~rate received prior to the~~before hire, promotion, or conversion and the ~~range's~~control point ~~of the range~~. If a salary-range subdivision applies, the base salary ~~rate must not~~cannot exceed the ~~subdivision's~~ceiling ~~of the subdivision~~. The first salary review may be given ~~at the~~after six-month period. ~~The State Personnel Director may authorize a higher starting rate upon application by the appointing authority. An~~ months. ~~If the rationale is documented and retained for audit, an~~ appointing authority may authorize a higher rate without ~~prior~~the director's 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~~above 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 ~~the~~ position's 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~~ Reclassification From Staff Attorney to Senior Attorney.**

Upon reclassification from Staff Attorney to Senior Attorney, the base salary ~~rate must not~~cannot exceed the ~~greater of (1) the~~ midpoint between the base salary ~~rate received prior to the~~before reclassification and the control point of the Senior Attorney range, or ~~(2) 8% above the base salary rate received prior to the~~before reclassification, ~~whichever is~~ greater.

**H. ~~Salary Upon~~ Reclassification ~~From to~~ 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~~cannot exceed the midpoint between (1) the base salary ~~received prior to the~~before reclassification and (2) the control point, or ceiling of ~~the~~any salary-range subdivision of the new salary range.

**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 cannot~~ receive a base-pay increase, unless the ~~proper classification's~~ maximum salary ~~rate of the proper classification,~~ if a ~~step and grade~~ classification ~~with steps,~~ 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.

**J. General Salary Increases.**

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

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

If the ~~State Personnel Director approves the conversion of an entire class~~ ~~director converts all~~ or part of a class from a performance-pay schedule to a schedule with steps, ~~the an~~ 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,~~ ~~when converted~~. 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,~~ ~~evaluation's effective date~~, 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.

**L. Exceptions.**

- ~~1. Exceptions to~~ ~~Appointing authorities may ask~~ the ~~director to approve exceptions to these~~ 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 on this regulation may be directed to Compensation, Civil Service Commission, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909; by telephone at 517-241-0837 or 517-373-7618; or to [MCSC-Compensation@mi.gov](mailto:MCSC-Compensation@mi.gov).