

# Michigan Civil Service Commission

## Regulation 5.07

<b>Subject:</b> <b>Performance-Pay Programs</b>		
<b>SPDOC No.:</b> 198-07	<b>Effective Date:</b> <del>January</del> May 1, 2019	<b>Replaces:</b> Reg. 5.07 (SPDOC <del>186-076</del> , January 1, 2019 <del>7</del> )

### 1. Purpose

This regulation establishes standards for performance-pay programs based on performance of an individual, a team of eligible individuals, or an entire agency.

### 2. CSC Rule References

#### 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.*

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#### (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 commission has established performance-pay programs for employees in designated classifications. Performance-pay programs consist of base-salary and lump-sum awards administered within established pay ranges.*

- B. Salary Range.** The commission fixes the range of rates of compensation for all classifications.
1. **Classification Ranges.** For each classification level in a performance-pay program, the commission fixes a salary range with minimum, control, and maximum points.
  2. **Agency Salary-range Subdivisions.** As authorized in rule 5-3.2, an appointing authority may ask Civil Service to approve one or more salary-range subdivisions within a class salary range established by the 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. The appointing authority shall give notice of an approved subdivision to each employee whose position is subject to its limits.
- C. Performance-Pay.** The appointing authority may grant a performance-pay award in accordance with 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 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 or (2) any applicable base ceiling under an approved salary-range subdivision.
  2. **Lump-Sum Award.** An employee may receive a lump-sum award that does not exceed the difference between the control point and maximum point. If the employee's base salary is below the control point or any applicable base ceiling, the employee can receive both a lump-sum award and a base-salary increase. If the employee's base salary is at the control point or any applicable base ceiling, the employee can only receive a lump-sum award.
  3. **Other Conditions.**
    - a. The total of an employee's lump-sum awards and base salary in a fiscal year cannot exceed the salary range's maximum point.
    - b. The salary range's minimum point is the lowest base salary for an individual appointed, reclassified, or converted to a classification in the performance-pay program.
    - c. An employee's base salary cannot exceed the lower of (1) the control point or (2) any applicable base ceiling under an approved salary-range subdivision.
    - d. An employee must receive a meets-expectations, a high-performing, or an equivalent performance rating before receiving any performance-pay award.
    - e. If an employee receives an unsatisfactory probationary, interim, or follow-up rating, the employee's base salary may be reduced by up to 5% in a fiscal year, unless a different limit is specified for 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.
4. **Other Conditions for ECP Groups 1, 2, and 3.** The following limits on performance-pay apply to employees in ECP Groups 1, 2, and 3:
    - a. An appointing authority must submit to the 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 total of all performance base-pay increases and lump-sum awards during any one fiscal year cannot exceed 5% of the employee's prior base salary.
  5. **Other Conditions for SES, SEMAS, and ECP Group-4.** The following limits on performance pay apply to employees in the SES, SEMAS, and ECP Group 4:
    - a. **Appointment Pay Rates.** The appointing authority must submit a request for pay approval to Civil Service for all appointments, including transfers, to SES, Group-4, and SEMAS positions, certifying that a performance-management plan is in place for the employee. In the SES or SEMAS, a limited-term appointment agreement and certification that Civil Service approved a current position description must be submitted with the request. Requests must be submitted before the pay period ends when the appointment or reappointment is effective.
      - (1) **Performance-Pay.** An appointing authority must request pay approval to Civil Service by the automated web-based approval process for all performance-pay base-salary and lump-sum awards for employees in SES, Group-4, and SEMAS positions, certifying that a performance evaluation has been completed. Requests must be submitted within 12 months of the performance evaluation's effective date. Retroactive base-salary increases cannot exceed seven pay periods from Civil Service receipt of the request.
      - (2) **Appointment- and Performance-Pay.** Civil Service shall approve or disapprove properly documented appointment-pay requests within 7 days of receipt and performance-pay requests within 14 days. Special extenuating circumstances may provide a basis for retroactive approval beyond seven pay periods. The director must approve any request for consideration of extenuating circumstances.
    - b. The total of all performance base pay increases and lump sum awards during a fiscal year cannot exceed 10% of the employee's prior base salary.
    - c. Any performance award over 5% of the employee's base salary should typically be a lump-sum award. Any award over 5% of the employee's base salary or an agency maximum lump-sum amount must be submitted by the appointing

authority to the director for approval under statewide performance criteria with the following documentation:

- (1) **Statement of support 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. If a base-salary increase over 5% is requested, the amount sought and why the base-salary increase is warranted must also be addressed. The statement may address other factors the agency director believes should be considered.
  - (2) **Employee's performance standards and evaluation.** A copy of the signed and dated performance evaluation must be provided that includes the performance factors and objectives, relevant competencies, and supervisor's evaluation.
6. **Other Conditions for Senior Attorneys.** The following limits on performance pay apply to Group-2 attorneys in performance-pay classifications in the Department of Attorney General:
- a. The maximum performance-pay increase or decrease in base salary in a fiscal year cannot exceed 8% of the employee's prior base salary.
  - b. The total of all performance base-salary increases and lump-sum awards during a fiscal year cannot exceed 8% of the employee's prior base salary.
7. **Working Out of Class in Performance-Pay Classifications.** An employee may be temporarily assigned to perform the duties of a properly classified position in a performance-pay classification with a higher maximum salary or control point. In such cases, the employee's base salary 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 but must report each performance evaluation to the director as required.
1. **Agency-wide Evaluation Plan.** Each agency must establish an annual cycle for performance evaluation, a process to ensure internal consistency of evaluations and pay recommendations, and measures to ensure timely submission of performance-pay requests to Civil Service for approval.
  2. **Performance Evaluation Documentation, Audit, and Reporting.** For audit by Civil Service, the appointing authority must document and retain the performance plan and evaluation for all employees in a performance-pay program using the appropriate

- Civil Service form or agency form approved by Civil Service. If an audit finds inadequate documentation, the appointing authority will be required to submit performance-evaluation documents to Civil Service to receive performance-pay approvals. The appointing authority must report each Group-4, SES, and SEMAS employee rating to Civil Service by the automated web-based process when seeking performance-pay approval.
- E. Appointment or Conversion to the SES or SEMAS.** Upon appointment or conversion to the SES or SEMAS, the base salary cannot be below the minimum point or above the control point. The first salary review may be given after six months.
- F. New Hire, Promotion, or Conversion to ECP Groups 1, 2, 3, or 4.** Upon new hire, promotion, or conversion into an ECP Group 1, 2, 3, or 4 class, the base salary cannot exceed the midpoint between the base salary before hire, promotion, or conversion and the range's control point. If a salary-range subdivision applies, the base salary cannot exceed the subdivision's ceiling. The first salary review may be given after six months. If the rationale is documented and retained for audit, an appointing authority may authorize a higher rate without the director's approval if:
1. There is difficulty recruiting for the particular position.
  2. The prospective employee is currently employed outside the classified service and a salary above the midpoint formula is necessary to attract the employee.
  3. The prospective employee has special experience or education well beyond the minimum qualifications in the specification for the position's classification.
  4. The prospective employee is currently or was previously a state employee and has experience pertinent to the position.
- G. Reclassification from Staff Attorney to Senior Attorney.** Upon reclassification from Staff Attorney to Senior Attorney, the base salary cannot exceed the greater of (1) the midpoint between the base salary before reclassification and the control point of the Senior Attorney range or (2) 8% above the base salary before reclassification.
- H. Reclassification to a Performance-Pay Classification with a Higher Control Point.** Upon reclassification within the performance-pay program, the base salary cannot exceed the midpoint between (1) the base salary before reclassification and (2) the control point or ceiling of 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 must receive annual performance evaluations, but cannot receive a base-pay increase, unless the proper classification's maximum salary, if a classification with steps, or control point, if a performance-pay classification, exceeds the employee's base salary. An employee occupying a frozen position is otherwise eligible to receive lump-sum performance awards.

- J. General Salary Increases.** A general-pay adjustment is based on the employee's base salary on the general-pay adjustment's effective date.
- K. Conversion from Performance-Pay Schedule to Step Schedule.** If the director converts all or part of a class from a performance-pay schedule to a schedule with steps, an employee is placed at a pay step at least equal to the employee's base salary under the performance-pay plan when converted. The employee's hours since step are set to the number of hours in pay status since the last performance 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 step are set to the number of hours in pay status in the position.
- L. Exceptions.** Appointing authorities may ask the director to approve exceptions to these standards.
- M. Critical-Position-Premium Pay.** Each fiscal year, an appointing authority may designate up to 2% of its filled NERE positions as critical after providing the state personnel director written notice of and justification for the designation and indicating the amount of the premium. Any designation counts toward the 2% limit for the entirety of any fiscal year in which a designation is effective. A designation expires after twelve months, but may be renewed by an appointing authority in writing to the director. An appointing authority may also remove a designation by providing written notice to the director. A designation as critical, its removal, and the amount of any premium cannot be grieved. A designation cannot be made retroactive before the pay period when the director receives notice.

## **CONTACT**

Questions on this regulation may be directed to Compensation, Civil Service Commission, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909; 517-241-0837 or 517-284-0102; or [MCSC-Compensation@mi.gov](mailto:MCSC-Compensation@mi.gov).