

**NEW MEXICO JUDICIAL BRANCH PERSONNEL RULES
PART I
FOR EMPLOYEES**

SECTION 3. COMPENSATION

3.01 PURPOSE

To pay, motivate and manage *employees* through a comprehensive system of compensation.

3.02 PAY

- A.** No *employee* shall be paid for hours not worked, unless on approved leave, or *stand-by* status. (Added 08/01/10)
- B.** An *Employee* shall report time and be compensated in compliance with the *FLSA* and *NMSA* 1978, Section 30-23-2. (Amended 08/01/10)
- C.** Pay should reflect appropriate placement within the assigned *pay range*, with consideration of the *employee's* competency, demonstrated performance and budget availability. (Amended 08/01/10)
- D.** No *employee* shall be paid less than the minimum of the classification's *pay range* or *alternative pay range*. (Amended 08/01/10)
- E.** No *employee* shall be paid more than the maximum of the classification's *pay range* or *alternative pay range*, except as a result of a downward *pay range* or *job measurement* adjustment. (Amended 08/01/10)
- F.** If an *employee's pay rate* is above the maximum of the range, it shall become frozen until the rate falls within the assigned *pay range*.
- G.** An *employee* at the maximum of the assigned pay range may receive a one-time lump sum payment if eligible for legislatively mandated salary increases.
- H.** Pay increases shall be funded from balances remaining in the *judicial entity's* current appropriation and there shall be no request for deficiency or supplemental appropriation or for emergency funding from the State Board of Finance to fund a pay increase.

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3.03 PAY SYSTEM

A. Initial Hire

The *Administrative Authority* may hire an *employee* at a *pay rate* up to 100% of the *pay range*, without approval of the *Director*, based upon

- (1) the qualifications of the applicant;
- (2) internal comparability with other *employees* in the same *classification*; or
- (3) *recruitment* and retention issues.

B. Promotion

- (1) The *Administrative Authority* shall increase the *employee's pay rate* upon *promotion*.
- (2) The *pay rate* increase may be up to 100% of the new *pay range* or an increase of up to 15% of the *employee's current pay rate* without approval of the *Director*.

C. Demotion

The *Administrative Authority* shall decrease the *employee's pay rate* upon *demotion*. The *pay rate* reduction will be no less than 5% and no more than 15%;, provided however a greater than 15% reduction may be necessary to follow NMJBPR 3.02, in which case the *employee's new pay rate* will be the maximum of the new assigned *pay range*. (Added 08/01/10)

D. Temporary Salary Increase (Added 08/01/10)

The *Administrative Authority* may grant an *employee* a temporary salary increase.

- (1) A temporary salary increase shall:
 - a. not be for less than 30 consecutive calendar days; and
 - b. not extend beyond the time such temporary condition ceases; or not be for more than 12 consecutive months.

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- (2) A temporary salary increase is limited to use for a vacant or an *effectively vacant* position.
- (3) A temporary salary increase may be awarded only to an *employee* who is temporarily performing higher-level job duties that are assigned to a *job* classification with a higher *pay range*.
- (4) The *Administrative Authority* shall increase an *employee's pay rate* in accordance with NMJBPR 3.03B(2).
- (5) At the conclusion of the temporary salary increase, the *employee's pay rate* shall revert to the previous *pay rate* plus any pay increases the *employee* would have received during the period of temporary salary increase.
- (6) The employment status of the individual receiving a temporary salary increase shall remain the same.

E. Lateral Transfer

An *employee's* transfer from one position to another position with the same assigned *pay range* within the *Judicial Branch* shall not result in a *pay rate* change, unless the change is to maintain salary alignment. (Amended 08/01/10)

F. Reclassification

- (1) Any change in compensation as a result of a *reclassification* resulting in movement to a higher *pay range* shall become effective no later than the first *pay period* following the *effective date* of the position's *reclassification*. Unless, the Director has suspended operation of this rule due to budget constraints in which case any change in compensation shall become effective prospectively within 24 months of the *reclassification*. (Amended 08/01/10)
- (2) A *reclassification* resulting in movement to a lower *pay range* shall not result in a loss of compensation unless the hourly rate of pay exceeds the maximum of the assigned *pay range*.
- (3) A *reclassification* resulting in movement to a higher *pay range* shall be governed by NMJBPR 3.03(B).

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G. Voluntary Classification Reduction (Amended 08/01/10)

The *Administrative Authority* shall decrease the *employee's pay rate* upon *voluntary classification reduction*. The *pay rate* decrease:

- (1) shall be at least 5% of the *employee's current pay rate*;
- (2) shall not be more than 15% less of the *employee's current pay rate*; unless the assigned *pay range* of the new *job* classification has a maximum *pay rate* that is more than 15% less of the *employee's current pay rate*.

H. Emergency Retention Pay Action (Added 08/01/10)

- (1) The *Administrative Authority* may recommend to the *Director* an emergency retention pay increase for an *employee* who has been employed with the *Judicial Branch* at least two (2) years, based upon the following criteria:
 - a. A receipt of a verifiable outside employment *job* offer with a higher *pay rate* to the *employee* from an entity outside the *Judicial Branch*.
 - b. Foreseeable *recruitment* difficulties related to the required work.
 - c. Supporting documentation shall include:
 1. an explanation of why the *employee* is critical to the *judicial entity*; and
 2. the *employee's* last two (2) performance evaluations indicating the *employee's* demonstrated exceptional performance.
- (2) The *pay rate* increase approved by the *Director* may not exceed 15% of the *employee's* current *pay rate* nor more than the maximum of the *employee's* assigned *pay range*.
- (3) The *Director* shall issue a letter to the *Administrative Authority* approving or disapproving the emergency retention increase. If the recommendation is approved, the *effective date* shall be no later than the first *pay period* following the *Director's* approval.

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I. State Board or Commission Membership (Added 08/01/10)

An *employee* who is a member of a state board or commission may, with the approval of the *Administrative Authority*, attend meetings or transact business of the board or commission during *regularly scheduled work hours* and be paid for *regular work hours*, provided the service does not hamper the performance of the *employee's* required duties.

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3.04 OVERTIME, HOLIDAY, SHIFT DIFFERENTIAL AND STAND-BY PAY

(Ref: Overtime, Holiday and Shift Differential Pay Policy and Stand-By Policy)

A. Overtime Pay

- (1) Administrative, annual, educational, holiday and sick leave shall not be considered hours worked for overtime or comp time accrual calculation purposes. (Added 08/01/10)
- (2) A *FLSA non-exempt employee* shall be compensated at time and one-half the regular rate of pay for actual hours worked over 40 hours in a designated *work week*. At the discretion of the *Administrative Authority*, compensation shall be made with monetary compensation or *compensatory time* off. (Amended 08/01/10)
- (3) An *FLSA exempt employee* who with prior approval works beyond 80 hours in a *pay period* shall be compensated at *straight time*. At the discretion of the *Administrative Authority*, compensation shall be made with accrual of *administrative compensatory time* or monetary compensation.
- (4) Any monetary compensation is subject to budget availability and shall be consistent with the Overtime, Holiday and Shift Differential Pay Policy. (Amended 08/01/10).
- (5) Upon separation from the *Judicial Branch*, *FLSA exempt employees* who have *administrative compensatory time* accrued at the time of separation shall not be compensated for that time. (Amended 08/01/10)
- (6) Upon transfer to another *judicial entity*, *administrative compensatory time* accrued by a *FLSA exempt employee* may be accepted by the *Administrative Authority*. (Added 08/01/10)
- (7) Upon transfer to another *judicial entity*, *compensatory time* accrued by a *FLSA non-exempt employee* may be accepted by the *Administrative Authority*, and if it is not accepted, this time shall be paid before transfer. (Added 08/01/10)
- (8) *Overtime* must be approved by the *Administrative Authority* prior to overtime being worked. (Amended 08/01//10)

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- (9) An *employee* shall not have a balance of more than 80 hours of *compensatory time or administrative compensatory time* at the end of the calendar year; however, when special circumstances arise, the *Administrative Authority* may extend the 80 hour limit. (Amended 08/01/10)

B. Holiday Pay

- (1) An *employee* who works on a designated holiday shall be compensated at time and a half of the regular rate of pay for all hours worked in addition to normal holiday compensation pay. (Amended 08/01/10)
- (2) An *employee* shall receive holiday pay on designated holidays that the *employee* does not work provided the *employee* was in a pay status on the last scheduled workday before the holiday and the first scheduled workday after the holiday.
- (3) An *employee* shall not receive *holiday premium pay and overtime pay* for the same hours worked on a holiday.
- (4) An *employee* whose separation date falls on a holiday shall not be compensated for that holiday.
- (5) An *employee* who works a designated shift between the hours of 6:00 p.m. and 7:00 a.m. on a designated holiday shall receive *holiday premium pay and shift differential pay* for the same hours worked on a holiday. (Added 08/01/10)

C. Shift Differential Pay

- (1) An *employee* assigned to work a scheduled shift between the hours of 6:00 p.m. and 7:00 a.m. and who actually works anytime during that time, shall receive *shift differential pay* (Amended 08/01/10)
- (2) All *employees* eligible for *shift differential pay* within a *judicial entity* shall be paid the same *shift differential pay* rate. (Added 08/01/10)
- (3) *Shift differential pay* shall not be less than \$0.60 per hour and no more than \$1.25 per hour in addition to the regular rate of pay for hours worked between 6:00 p.m. and 7:00 a.m. and shall be at the discretion of the *Administrative Authority*. (Added 08/01/10)

D. Stand-By Pay (Ref: Stand-By Policy)

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3.05 NO COMPENSATION DURING LEAVE WITHOUT PAY

In accordance with NMJBPR 5.12, Leave Without Pay, an *employee* on authorized or unauthorized leave without pay shall not be compensated, and may experience changes to benefit coverage, leave accruals, and PERA credit.

3.06 PERFORMANCE AND COST OF LIVING COMPENSATION ADJUSTMENT

Performance and cost of living compensation adjustments shall be governed by the legislation creating and authorizing them.

3.07 OUT-OF-CYCLE COMPENSATION INCREASE

(Ref: Out-of-Cycle Guidelines, Criteria, and Form Instructions adopted by Supreme Court Order 05-8500)

A. The *Administrative Authority* may recommend to the *Director* an out-of-cycle increase, consistent with the Out-of-Cycle Guidelines, based upon the following criteria:

- (1) demonstrated exceptional performance;
- (2) *salary alignment*; or
- (3) *compensation restoration* as a result of *job measurement*.
(Amended 08/01/10)

- a. Any pay increases associated with compensation restoration may be suspended due to budget constraints in which case any change in compensation shall become effective prospectively within 24 months of the adopted new job measurement. (Added 08/01/10)

B. The *Director* shall issue a letter of explanation to the *Administrative Authority* approving or disapproving the out-of-cycle increase. If the recommendation is approved, the *effective date* shall be no later than the first *pay period* following the *Director's* approval.

3.08 MARKET ADJUSTMENT (Ref: Market Adjustment Polic)

A. An *Administrative Authority* may request the *Director* to conduct a *market review* of the competitive *pay rates* for a *classification* series within a geographic location or specific market to address critical recruitment and retention problems.

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- B.** Based upon the *market review*, the *Director* may recommend to the Supreme Court assignment of *alternative pay ranges*.
- C.** The *pay rate* for positions within the geographic location or specific market may be adjusted to an *alternative pay range* to meet competition and to remedy *recruitment* and retention problems.
- D.** An *alternative pay range* assignment shall be for no more than a two (2) year duration. The adjustment may be extended thereafter in two (2) year increments with updated and supporting *market review* data.

3.09 COMPENSATION INCREASE FOR CERTIFIED BILINGUAL COMMUNICATION EMPLOYEES (Added 08/01/10)

- A.** The Administrative Authority may approve an employee's advanced request to have their bilingual certification recognized for additional pay.
- B.** A written request to the Administrative Authority seeking such additional pay shall be provided before the employee begins the certification process.
- C.** The approval or disapproval of the Administrative Authority is only in regard to additional pay upon certification completion, not the employee's ability to seek certification unless such is funded by the Judicial Entity.
- D.** To be considered for a certified bilingual compensation increase, an employee must be a "certified bilingual employee." A certified bilingual employee is an employee who meets each of the following requirements:
 - (1)** The employee successfully completes the New Mexico Center for Language Access bilingual communication program, obtaining a certification of successful completion.
 - (2)** The employee keeps the employee's bilingual communication certification current, including compliance with any continuing education requirements required by the New Mexico Center for Language Access.
- E.** A certified bilingual employee shall be given an increase of \$1.00 per hour in addition to an employee's regular hourly rate of pay. This increase shall be incorporated into the employee's base pay.
 - (1)** The increased compensation required for a certified bilingual employee shall be funded within the judicial entity's

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appropriation, and there will be no request for a deficiency or supplemental appropriation or for emergency funding from the State Board of Finance to implement and maintain the compensation increase.

- (2) The Administrative Authority shall annually determine whether the employee's bilingual communication certification is current and, if not, shall reduce the employee's pay by \$1.00 per hour until such time as the employee's bilingual communication becomes current, at which time the increased compensation of \$1.00 per hour shall be reinstated.

- (3) The Administrative Authority within the Judicial Entity in which the employee is employed shall determine upon an employee's job transfer, promotion or demotion, if the employee's bilingual communication certification is required and, if not, shall reduce the employee's base pay by \$1.00 per hour immediately before any job change transpires.