

## DEPARTMENT OF HUMAN RESOURCES

### 2.3 POLICY ON CLASSIFICATION, COMPENSATION, REINSTATEMENT, REASSIGNMENT, AND TRANSFER

#### (a) Purpose and Scope

##### (1) Purpose

To establish a uniform policy to promote fair and consistent application of classification, compensation, reinstatement, reassignment, and transfer practices.

##### (2) Scope

(A) This policy applies to:

- (i) employees who are paid through the Central Payroll Bureau of the Comptroller; and
- (ii) employees of the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Supreme Court of Maryland Standing Committee on Rules of Practice and Procedure.

(B) This policy does not apply to:

- (i) locally funded employees in the circuit courts;
- (ii) the employees of the Register of Wills or the Orphans' Court;
- (iii) the employees of the Attorney Grievance Commission and the Client Protection Fund;
- (iv) justices, judges and elected officials.

#### (b) Definitions

(1) **Acting Capacity** – Temporary compensation provided to an employee who has assumed, for at least 10 work-days, greater responsibilities resulting from the temporary absence of another employee, the existence of a vacant critical position, or for the temporary need for additional staff to perform higher level duties. The employee continues to hold the position they held when the acting capacity began. The acting capacity shall not exceed six months without the written approval of the Assistant State Court Administrator of the JHRD.

##### (2) Administrative Head:

- (A) For the Supreme Court of Maryland, the Clerk of the Court for all employees under the Clerk's supervision, and the Chief Justice for all other employees of that Court;
- (B) For the Appellate Court of Maryland, the Clerk of the Court for all employees under the Clerk's supervision and the Chief Judge for all other employees of that Court;
- (C) For the circuit courts, the Clerk of the Court for all employees under the Clerk's supervision, and the County Administrative Judge for all state employees under their supervision;
- (D) For the District Court, the Chief Judge of the District Court, the Chief Clerk, or the Administrative Clerk or Administrative Commissioner for all employees under their supervision;
- (E) For the Administrative Office of the Courts (AOC), the State Court Administrator;
- (F) For any units, the head of the unit where the employee works; or,
- (G) Any person who serves as the authorized designee, by express written designation, of any of the foregoing persons.

(3) **Classification** – Involves evaluating the duties, responsibilities, scope, and complexity of a position to determine the job title and compensation.

- (4) **Commute Time** – The time it normally takes for an employee to travel from their residence to their office.
- (5) **Contractual Employee** – Any person whose condition of employment and compensation are specified in a personal services contract.
- (6) **Demotion** – A change from one job classification to another job classification with a lower market minimum.
- (7) **Flat Rate** – A fixed annual rate of pay assigned to a particular position.
- (8) **Full-Time Contractual Employee** – A contractual employee who is scheduled and works an average of 85% or more of a forty-hour week, per calendar year.
- (9) **Judiciary Human Resources Division (JHRD)** – The division within the AOC that is responsible for, but not limited to, the following functions for State employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; talent acquisition; employment and orientation services; employee benefits; position classification and salary administration; employer-employee relations; and judicial services and information privacy.
- (10) **Main Worksite** – The normal place of business for an employee.
- (11) **Overtime**
  - (A) **Non-exempt Employee.** Hours worked in excess of an employee’s normal workday, as pre-approved by the Administrative Head, provided total hours worked (to include paid leave) for the work week exceed 40. Hours exceeding 40 are compensated at the rate of time and one half. When an employee takes leave for any part of the day, no overtime accrues on that day until the hours worked beyond the employee’s normal workday exceed the leave hours that were taken.
  - (B) **Exempt Employee.** An exempt employee may be required by their Administrative Head to work hours that are beyond the employee’s normal workday. The hours worked are not eligible for a cash overtime payment. The employee will accrue compensatory leave at the straight time rate, provided the total hours worked (to include paid leave) for the week exceed 40. When an employee takes leave for any part of the day, no compensatory leave accrues until the hours worked beyond the employee’s normal workday exceed the leave hours that were taken. See Section (c)(17)(B) of this policy and the Policy on Leave, Section (e)(4), for more information on compensatory leave for exempt employees.
- (12) **Pay Range** – A range of pay assigned to a particular position. The range will have a minimum and maximum amount of pay allowed for the position. An employee may be compensated anywhere within the pay range assigned to their position.
- (13) **Position Identification Number (PIN)** – A unique number that identifies a position.
- (14) **Promotion** – An action by which an employee moves from one position to another position that has a higher market minimum.
- (15) **Reassignment** – The movement of an employee within or outside the employee’s current office or unit within the Judiciary, which may or may not result in a change to the employee’s pay range and/or PIN. Any reassignment is conditional upon the employee meeting the minimum qualifications for the new position.
- (16) **Reclassification** – A change of a position from one job classification to another job classification that more appropriately reflects the duties and responsibilities of the position. The reclassification may be to a higher, lower, or the same pay range as the former position.

- (17) Regular Budgeted Position** – A state Judicial Branch budgeted position having an assigned PIN, not including contractual and temporary positions.
- (18) Regular Employee** (for the purpose of this policy only) – Any person holding a regular budgeted position paid through the Central Payroll Bureau of the Comptroller, not including elected officials, employees of a Register of Wills office, contractual and temporary positions, and those held by justices, judges, magistrates, and law clerks.
- (19) Reinstatement** – Through a competitive process, the re-employment within three years of a regular employee who successfully completed initial probation, if one is required, and who separated in good standing from the Maryland Judiciary or other unit of Maryland State government. Additionally, reinstatement of a former employee returning to state employment from active uniformed service must be in accordance with all applicable federal and state laws.
- (20) Temporary Employee** – A person whose condition of employment is not governed by a personal services contract, whose position is not specifically budgeted, and whose period of employment shall not exceed one year from the date of hire.
- (21) Transfer, Internal** – The movement of an employee outside the employee’s current office or unit within the Judiciary, in which the employee’s pay range does not change, but the employee’s PIN may change. A transfer may include a change in the work hours, work shift, work location, work assignment, and/or work supervisor of an employee. Such a transfer may include a selection process. Any transfer is conditional upon the employee meeting the minimum qualifications for the new position.
- (22) Transfer, Intra-agency** – An employee of another unit of Maryland State government may transfer into a position with the Judiciary only following a competitive selection process. Such a transfer may result in a change in the employee’s pay, depending on the pay range assigned to the position to which the employee transfers.
- (23) Unit** – The State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Supreme Court of Maryland Standing Committee on Rules of Practice and Procedure.

### **(c) Judiciary Compensation Practices**

- (1) Pay Ranges.** Each classification is assigned a pay range that includes the minimum and maximum salary amounts for that range.
- (2) Flat Pay Rate.** There are some positions within the Judiciary that do not have a pay range and are compensated at a flat rate of pay.
- (3) Hourly Rates of Pay.** Contractual and temporary positions within the Judiciary receive an hourly rate of pay.
- (4) Entry Rate of Pay.** The entry rate of pay for a new employee will be the market minimum salary for the classification in which the employee is hired, as set by the JHRD. There may be very limited flexibility for a higher entry salary based on recruitment, retention, and qualifications as determined by the JHRD. The JHRD will conduct an internal equity analysis to approve a higher entry rate of pay. This excludes flat pay rate positions.
- (5) Reinstatement**
  - (A) When an employee is reinstated, the employee’s pay shall be determined as follows:

- (i) The pay range will be the pay range currently assigned to the classification in which the employee is hired;
  - (ii) A former employee of another unit of state government who is reinstated may be offered a salary in which the previous service with the state is considered for a salary higher than the market minimum on the Judiciary Pay Scale (J-scale), Technical Pay Scale (T-scale), and Senior Leadership Pay Scale (S-scale). The salary offer may not exceed the five-year salary mark on the salary scale for the classification in which the employee is hired for positions on the J-scale and T-scale. For S-scale positions, the salary offer may not exceed the midpoint on the on the salary scale. There is flexibility for a higher salary based on recruitment difficulty and qualifications as determined by the JHRD. This excludes flat pay rate positions.
  - (iii) A former state Judiciary employee reinstated into the same classification held at the time of separation from the Judiciary will receive the same salary earned at the time of separation, or the five-year mark for the classification, whichever is greater;
  - (iv) A former state Judiciary employee reinstated into a lower classification than that held at the time of separation from the Judiciary will receive a salary that is 6% less than the employee's salary at the time of separation or the market minimum of the lower classification, whichever is greater. If the 6% decrease is higher than the maximum for the pay range for that classification, then the employee will be placed at the maximum of the pay range;
  - (v) Notwithstanding the above, the JHRD will review the anticipated reinstatement salary to determine if a salary creates an internal salary equity issue with current staff and/or the supervisor/manager. If the JHRD determines there would be an internal salary equity issue, then the salary will be determined by the JHRD, in consultation with the Administrative Head.
  - (vi) A former state Judiciary employee reinstated into a higher classification than the classification held at the time of separation from the Judiciary will receive a salary that is 6% greater than the employee's salary at the time of separation or the market minimum, whichever is greater. If the 6% increase is higher than the maximum for the pay range for that classification, then the employee will be placed at the maximum of the pay range;
  - (vii) The decision of the JHRD is final.
- (B) The reinstatement of employees returning from active uniformed services is covered by specific federal and state laws. Please consult with the JHRD when reinstating someone returning from active uniformed services.
- (6) Part-Time Employment.** Compensation for part-time employment shall be prorated in proportion to the number of hours employed.
- (7) Merit Increase.** This Section applies only to regular employees who have successfully completed an initial probationary period, if one is required, and is dependent upon funding and approval of the Chief Justice of the Supreme Court of Maryland or the State Court Administrator.
- (A) In a year in which a merit increase is approved, the increase will be effective on a date and of an amount determined by the Chief Justice of the Supreme Court of Maryland, or the State Court Administrator.
- (B) An employee must receive an overall rating of meets standards or better on the most recent annual performance appraisal to be eligible to receive a merit increase.

- (i) If an employee is serving an initial probation when a merit increase is approved, the employee will receive the merit increase, the following pay period after the initial probation is completed.

**(8) Contract Renewals.** Prior to the contract renewal period, the Administrative Head may discuss with the JHRD any changes to the contract, including compensation.

**(9) Reassignment**

- (A) The Administrative Head of an employee's office or unit, in consultation with the JHRD, may direct the reassignment of the employee within that office or unit, either at the employee's request or on the Administrative Head's own initiative.
- (B) The Administrative Head of the employee's office or unit, in consultation and cooperation with the Administrative Head of another office or unit, and in consultation with the JHRD, may direct the reassignment of an employee into the other office or unit, either at the employee's request or with the employee's consent.
- (C) The State Court Administrator, in consultation with the respective Administrative Head(s) and the JHRD, may direct the reassignment of an employee, either within or outside the employee's own office or unit, in circumstances in which the State Court Administrator believes such reassignment is in the best interest of the Judiciary. This action does not require the employee's request or consent. The State Court Administrator shall issue such a directive, in writing, to the employee's current Administrative Head, and, if applicable, to the Administrative Head for the position to which the employee is being reassigned.
- (D) The employee's salary is not affected by reassignment and the employee retains their existing PIN.
- (E) If the reassignment is approved, the employee's pay shall be within the pay range for the position to which the employee is reassigned, as determined by the JHRD. The decision of the JHRD is final.
- (F) The reassignment of an employee within the Judiciary, in accordance with this policy, whether initiated by the Administrative Head, the State Court Administrator, or the employee, is not subject to a grievance action.

**(10) Internal Transfer**

- (A) The Administrative Head of the employee's office or unit, in consultation and cooperation with the Administrative Head of another office or unit, and in consultation with the JHRD, may direct the transfer of an employee into the other office or unit, either at the employee's request or with the employee's consent.
- (B) The State Court Administrator, in consultation with the respective Administrative Head(s) and the JHRD, may direct the transfer of an employee, either within or outside the employee's own office or unit, in circumstances in which the State Court Administrator believes such transfer is in the best interest of the Judiciary. This action does not require the employee's request or consent. The State Court Administrator shall issue such a directive, in writing, to the employee's current Administrative Head, and, if applicable, to the Administrative Head for the position to which the employee is being transferred.
- (C) The employee's salary is not affected by transfer and the employee retains their existing PIN.

- (D) Notwithstanding the above, an employee may request a transfer to another position which may or may not have a different pay range and a different PIN. If the transfer is approved, the employee's pay shall be within the pay range for the position to which the employee is transferred, as determined by the JHRD. The decision of the JHRD is final.
- (E) The internal transfer of an employee within the Judiciary, in accordance with this policy, whether initiated by the Administrative Head, the State Court Administrator, or the employee, is not subject to a grievance action.

**(11) Intra-Agency Transfer**

- (A) Through a competitive selection process, an employee of another unit of state government may transfer into a position with the Judiciary.
- (B) The salary offered may consider service with the state for a salary higher than the market minimum on the Judiciary Pay Scale (J-scale), Technical Pay Scale (T-scale), and Senior Leadership Pay Scale (S-scale). The salary offer may not exceed the five-year salary mark on the salary scale for the classification in which the employee is hired for positions on the J-scale and T-scale. For S-scale positions, the salary offer may not exceed the midpoint on the on the salary scale. There is flexibility for a higher salary based on recruitment difficulty and qualifications as determined by the JHRD. If the employee is a former Judiciary employee, then the salary rules in (c)(5) will apply. This excludes flat pay rate positions.

**(12) Reclassification**

- (A) An employee may submit a request for reclassification to the Administrative Head. The Administrative Head also may initiate a request for reclassification in CONNECT to JHRD to review the Position Description Questionnaire (PDQ) and required documents to include but not limited to:
  - (i) justification;
  - (ii) updated organizational chart; and
  - (iii) supporting documents that denote the change in duties and responsibilities.
- (B) Reclassification Authorities
  - (i) All reclassification requests must be submitted, reviewed, and approved by the JHRD.
  - (ii) All reclassification requests for AOC employees must be approved by the State Court Administrator.
  - (iii) The submittal of a reclassification request involving a Senior Leadership position must be approved by the State Court Administrator or the Chief Judge of the District Court, prior to submitting the request to the JHRD.
  - (iv) The effective date of a reclassification action must coincide with the beginning of a pay period.
- (C) Review of Classification Decisions. The Administrative Head may request that the classification determination be reconsidered to account for any new or additional information. The decision of the JHRD is final.
- (D) The pay for an employee whose position is reclassified shall be within the pay range assigned to the new classification. The determination of the new salary will be the same as in subsection (13) below. The decision of the JHRD is final and not subject to a grievance action.



**(13) Promotion.** The pay for an employee who is promoted as defined in this policy shall be within the pay range assigned to the classification to which the employee was promoted through a competitive process, as follows:

- (A) Employees with less than 5 continuous years of state Judiciary service will receive a 6% increase or the market minimum for the new position, whichever is greater;
- (B) Employees with more than 5 but less than 10 continuous years of state Judiciary service will receive a 6% increase or the market mid-point for the new position, whichever is greater.
- (C) Employees with 10 or more continuous years of state Judiciary service will receive a 6% increase or the 10-year salary mark for the new position, whichever is greater;
- (D) If the 6% increase is higher than the maximum for the pay range for that classification, then the employee will be placed at the maximum of the pay range;
- (E) Notwithstanding the above, the JHRD may review the anticipated salary to determine if a 6% salary increase creates an internal equity issue with current staff and/or the supervisor/manager. If the JHRD determines there would be an internal equity issue, then the salary increase may be less than 6% as determined by the JHRD, in consultation with the Administrative Head. However, if applicable, the promoted employee's compensation within the pay range cannot be less than the 5 or 10-year salary mark for continuous years of state Judiciary service.
- (F) Employees promoted to the S-Scale will receive up to the midpoint for the new position based on factors as determined by the JHRD.
- (G) The decision of the JHRD is final and not subject to a grievance action.

**(14) Acting Capacity**

- (A) All acting capacity requests must be reviewed and pre-approved by the JHRD. Approval of a request is at the discretion of the JHRD. Requests should be accompanied by a completed acting capacity form, an employment application, and a current organizational chart.
- (B) The designated employee for an acting capacity must: meet the minimum qualifications for the acting classification; have completed the initial probationary period if one is required; not have received a disciplinary action in the last 12 months; and, be able to perform every essential function of the position.
- (C) Acting capacity may be granted when a function is being performed due to the continuous temporary absence of another employee, when there is a vacant position, or when there is a temporary assignment of higher-level duties assigned to a position. There is a 10-work-day waiting period before acting capacity payment begins. Acting capacity requests may be approved for up to six months. Extensions of acting capacity requests must be approved by the Assistant State Court Administrator of the JHRD or designee.
- (D) When a regular employee is assigned duties in an acting capacity, the affected employee's pay will be temporarily adjusted to the equivalent of what the pay would be if the employee was promoted to the indicated classification.
- (E) If an employee in acting capacity goes out on FMLA or another form of protected leave, or is otherwise unable to perform the duties of the position, the acting capacity assignment and acting pay will terminate.

- (F) Acting capacity pay is initiated by management and is at the approval of the JHRD. A denial of acting capacity is not subject to a grievance action.

### **(15) Demotion**

- (A) Adjusted Salary – The pay for an employee who has been demoted shall be within the pay range for the position to which the employee is demoted.
  - (i) The employee will realize 6% reduction in salary;
  - (ii) If the 6% reduction leaves the employee below the market minimum salary for the classification, then the employee will be placed at the market minimum;
  - (iii) If the 6% reduction leaves the employee’s salary above the maximum salary for the classification to which they are demoted, then the reduction will be to the maximum salary for that classification, which could result in a salary reduction greater than 6%;
  - (iv) Notwithstanding the above, the JHRD will review the anticipated salary to determine if a 6% salary reduction creates an internal salary equity issue with current staff and/or the supervisor/manager. If the JHRD determines there would be an internal salary equity issue, then the salary reduction will be greater than 6% as determined by the JHRD, in consultation with the Administrative Head.
  - (v) The decision of the JHRD is final and is not grievable.
- (B) Demotion for Disciplinary Reasons – An Administrative Head may demote an employee for disciplinary reasons due to performance or conduct issues. The demotion must be in accordance with the Judiciary’s Policy on Disciplinary Actions.
- (C) Demotion to Facilitate an Organizational Change – An Administrative Head may demote an employee to facilitate an organizational change. A demotion for this reason is not subject to a grievance action.

### **(16) Pay Adjustments Resulting from Special Studies.** Pay adjustments may be granted as a result of occupational, or group studies conducted by the JHRD or an external consultant, with the authorization of the Chief Justice of the Supreme Court of Maryland or designee.

- (i) Reduction in pay for a current incumbent will not occur, if it is deemed appropriate to adjust the salary range based on the results of a special study.

### **(17) Overtime Compensation**

- (A) Non-exempt employees (cash overtime eligible) are paid:
  - (i) Cash at the rate of time and one-half for overtime hours worked; or,
  - (ii) Compensatory leave at the rate of time and one-half for overtime hours worked pursuant to the Policy on Leave.
- (B) Exempt regular employees:
  - (i) Do not earn cash overtime but are compensated with compensatory leave at the straight time rate when working approved hours beyond the employee’s normal schedule, pursuant to the Policy on Leave.
  - (ii) Compensatory leave will begin to accrue only after the employee has worked beyond the employee’s normal workday. A regular exempt employee authorized to work beyond the employee’s normal workday will accrue compensatory leave for the additional time worked. See the Policy on Leave, Section (e)(4), for more information on compensatory leave.



- (C) Contractual and temporary exempt employees will receive cash at the rate of time and one-half when working approved overtime.
- (D) When an employee is required to work beyond the employee's normal workday when traveling directly to and from the employee's residence and a work location other than the employee's office, the employee's commute time will not be counted when calculating the amount of overtime hours or compensatory leave accrued for that day.
- (E) When an employee is in travel status, as defined in the Judicial Branch Travel Policy, work-related travel should occur within the employee's normally scheduled work hours. If that is not possible, the employee's work schedule for that day should be adjusted, so that the travel time occurs during the adjusted scheduled work hours. Travel outside of a normal workday must be approved by the Administrative Head.
- (F) When an employee takes leave for any part of the day, no overtime or compensatory leave accrues until the hours worked beyond the employee's normal workday exceed the leave hours taken.

**(18) Shift Differential Compensation**

- (A) An employee who is in a position eligible for shift differential will receive an hourly premium of \$3.00 for each hour worked after 5:00 p.m. and before 7:00 a.m.
- (B) Eligible positions include: District Court Commissioners; Special Police Officers; Bailiffs; certain JIS positions providing 24/7 coverage; certain positions within the Thurgood Marshall State Law Library; and certain couriers who are required to report to work during the premium eligible hours.
- (C) Employees will not be paid shift differential when on paid leave.
- (D) CONNECT will automatically calculate the shift differential for employees in shift eligible positions. Such employees will not have to select shift pay when completing their time sheets.

**(19) Documentation.** The JHRD will retain documentation of all salary transactions according to the Maryland Judiciary Records Retention Schedule.

**(d) Exceptions**

The Chief Justice of the Supreme Court of Maryland or the State Court Administrator may make exceptions to any provision of this policy.

**(e) Interpretive Authority**

The JHRD is responsible for the interpretation of this policy.

**(f) Not a Contract**

This policy does not constitute or create an express or implied contract. It is not intended to, and does not, create contractual obligations with respect to any matter it covers.