

CITY OF CHESAPEAKE, VIRGINIA

NUMBER: 2.54

ADMINISTRATIVE REGULATION

EFFECTIVE DATE: 08/07/2017

**SUBJECT: DEPARTMENT OF HUMAN RESOURCES –
PAY PROVISIONS POLICY**

SUPERSEDES: 08/17/10

I. PURPOSE

This Administrative Regulation is intended to establish consistent criteria for determining appropriate pay based on specific types of personnel actions, federal and/or State law, or other pay-related provisions.

II. APPLICABILITY

All City of Chesapeake classified employees shall be covered by the provisions of this Policy unless specifically stated otherwise.

III. AUTHORITY

Under the direction of the City Manager, the Director of Human Resources is responsible for the daily administration of the Human Resources Classification and Compensation Plan and for rendering official interpretations of this policy.

For the purposes of this policy, references to the City Manager, Director of Human Resources, or department head shall include their designees.

IV. DEFINITIONS

- A. **Competitive Wage Rate** – The minimum rate of pay adopted by the City Manager for regular full-time employees.
- B. **Demotion** – The placement of an employee in a lower job classification due to a request by the employee, unsatisfactory job performance or disciplinary action.
- C. **Exempt Employees** – Employees who are excluded from the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA).
- D. **General Employees** – Employees other than sworn public safety employees.
- E. **Job Classification (Class)** – A position or group of positions with an assigned job class title that (1) has similar duties and responsibilities, (2) requires like qualifications, and (3) can be equitably compensated by the same salary range.

- F. **Lateral Transfer** – The voluntary or involuntary assignment of an employee to a different position within the same pay grade.
- G. **Market Adjustment** – An increase or decrease to the pay grade assigned to a job classification due to external market factors.
- H. **Marginally Qualified** – The status assigned to a new hire or newly-promoted employee when he or she is appointed with less than the minimum qualifications.
- I. **Non-Exempt Employees** – General employees who are eligible for overtime compensation according to the provisions of the FLSA.
- J. **On-call** – The time spent by an employee after the regular work hours in his or her own pursuits during which he/she must remain available to be contacted about work or called back to work if the need arises.
- K. **Overtime Hours** – The total hours worked which exceed the FLSA overtime threshold for non-exempt employees or, for partially exempt employees, regularly scheduled hours.
- L. **Overtime Leave** – Leave which is earned by non-exempt employees at time and one half hour for each hour worked in excess of the established FLSA overtime threshold or, for partially exempt employees, regularly scheduled hours.
- M. **Overtime Pay** – The payment received by non-exempt employees at time and one half hours for each hour worked in excess of the FLSA overtime threshold or, for partially exempt employees, regularly scheduled hours.
- N. **Partially Exempt Employees**– Public safety employees who are covered by § 207(k) of the FLSA.
- O. **Promotion** – The placement of an employee in a job classification with a higher pay grade as a result of a competitive hiring process.
- P. **Reclassification** – A change of the job classification assigned to a position based on the study of actual tasks, duties, and responsibilities of the position.
- Q. **Red Circled Rate** – A designation indicating that an employee's rate of pay is above the maximum of the pay grade to which the employee is assigned.
- R. **Stipend Pay** – A sum paid in addition to base pay at scheduled intervals for services, skills, education, or as an allowance.
- S. **Temporary Acting Assignment** – An assignment in which a regular full-time or regular part-time employee is assigned in a temporary acting capacity to a position of higher responsibility.

- T. **Work Period** is defined as a regularly recurring work cycle from seven to twenty-eight consecutive days.
- U. **Workweek** is defined as a regularly recurring period of seven consecutive days or 168 consecutive hours.

V. **NEW EMPLOYEES**

A. **General Employees**

1. A new employee's pay should be based on his/her qualifications relative to the position for which he/she is being hired. To maintain internal equity, department heads are encouraged to research salaries of current employees within their department and take this information into consideration when determining an appropriate rate of pay for a new employee.
2. If a new employee has qualifications that substantially exceed the minimum qualifications of the position, a pay rate higher than the pay grade minimum may be appropriate. In such case, written justification should be provided to the Director of Human Resources for approval prior to making the job offer. Human Resources will review the recommendation for City-wide internal equity and make a final pay rate determination or forward a recommendation to the City Manager, as appropriate.
3. A salary offer above the midpoint of the assigned pay grade requires the prior approval of the City Manager.
4. A new employee who does not meet all of the required qualifications of the position shall be considered a marginally-qualified hire. The department head shall consider the circumstances in recommending an appropriate rate of pay. In such case, the department head may recommend a rate not to exceed 5% below the minimum. Written justification should be provided to the Director of Human Resources for approval prior to the job offer being made.
5. Generally, a marginally qualified hire is limited to 12 months in such status, at which time the employee must satisfy the required qualifications of the position or be separated from employment. Employees must sign an acknowledgment of this requirement at the time the conditional job offer is accepted. To request an extension, the department head must submit written justification for the review and approval of the Director of Human Resources prior to the end of the 12-month period.
6. All regular full-time employees will be paid at a rate which is at or above the competitive wage rate established by the City Manager. This rate shall be

reviewed periodically by the Director of Human Resources who shall recommend to the City Manager any appropriate changes based on the federal poverty guidelines, federal minimum wage, and other relevant information.

7. With department head approval, a City retiree returning to part-time or seasonal/substitute employment may be hired at 5% above the pay grade minimum provided the retiree has significant experience directly related to the part-time position for which he/she is being hired.

B. Sworn Public Safety Employees

1. Pay provisions applicable to regular full-time Trainees as well as rehired and reinstated employees are covered in Administrative Regulation 2.25, Fire Entrance Policy, and Administrative Regulation 2.26, Police Entrance Policy.
2. With department head approval, a City retiree returning to part-time or seasonal/substitute employment may be hired at 5% above the pay grade minimum provided the retiree has significant experience directly related to the part-time position for which he/she is being hired.

VI. PROMOTIONS

A. All Employees

1. An employee who is promoted to a class which is one grade above the employee's current class is eligible for a pay increase of 5%, or the minimum salary of the new position, whichever is greater, not to exceed the maximum of the pay grade.
2. An employee who is promoted to a class which is two or more grades above the employee's current class is eligible for a pay increase of 10%, or the minimum salary of the new position, whichever is greater, not to exceed the maximum of the pay grade.
3. The Director of Human Resources may approve an increase greater than the prescribed 5% or 10%, up to the pay grade midpoint, with appropriate justification. The department head must receive approval of the higher promotional rate prior to extending the job offer.
4. A pay increase above the pay grade midpoint, when such increase exceeds the prescribed promotional increase percentage (i.e. 5% or 10%), requires the prior approval of the City Manager. Such transactions require written justification to the Director of Human Resources from the department head. The department head must receive approval of the higher promotional rate prior to extending the job offer.

5. When an employee is promoted to a position, but does not meet all of the required qualifications of the position, the employee shall be considered a marginally qualified newly-promoted employee. As such, the employee shall be eligible for a reduced promotional increase of 2.5% for a position which is one grade above the current class and 5% for a position which is two or more grades above the current class. Once the marginally qualified employee meets all of the required qualifications, he/she will receive the remaining portion of the pay increase appropriate for his/her promotion.
6. A marginally qualified newly-promoted employee is limited to 12 months in such status, at which time the employee must satisfy the required qualifications of the position. If the employee does not satisfy the required qualifications of the position, he/she may be demoted, if a suitable position exists, or will be separated. Employees must sign an acknowledgment of this requirement at the time the conditional offer of promotion is accepted. To request an extension, the department head must submit written justification for the review and approval of the Director of Human Resources prior to the end of the 12-month period.

B. Public Safety Step Plan Employees

1. When a general employee transitions to a Trainee job class in the Public Safety Step Plan, the employee's salary will be adjusted to the minimum of the applicable pay grade unless the Director of Human Resources approves an exception.
2. For sworn public safety non-management employees in the step plan being promoted within grades PS07 or lower, the prescribed pay increase shall not be rounded up to the closest step in the new pay grade.

VII. LATERAL TRANSFERS AND STATUS CHANGES

- A. Generally, there shall be no change in an employee's rate of pay as a result of a lateral transfer. However, a lateral transfer to another department may result in a reduction in pay if retraining is necessary or if a funding or internal equity concern exists. Such transaction requires the prior approval of the Director of Human Resources.
- B. Generally, an employee transitioning to a position with a different status (e.g. regular part-time or seasonal/substitute to full-time or vice versa) within the same job classification shall retain the same rate of pay or be brought to the minimum of the pay range, whichever is greater. Exceptions to this provision must be submitted to the Director of Human Resources for approval prior to making the job offer.

VIII. DEMOTIONS

- A. All Employees

1. A demotion shall result in a minimum 5% decrease of the employee's pay rate within the approved pay grade for the lower class position. The department head shall consider the following factors in recommending to the Director of Human Resources the appropriate demotion rate:
 - a. The action that prompted the demotion (i.e., disciplinary or non-disciplinary); and
 - b. The relationship between the pay grade of the employee's current position and the pay grade of the proposed position.
 - c. The salaries of incumbents in the lower job classification relative to their overall qualifications (e.g. experience, special skills, certifications).
 2. The final rate of pay shall be approved by the Director of Human Resources prior to notifying the employee.
 3. Regardless of the reason for the demotion, an employee's rate may not exceed the maximum of the assigned pay grade.
 4. Based on extenuating circumstances, the City Manager may grant an exception to the rate reduction requirement.
- B. Public Safety Step Plan Employees

In the instance of a demotion of an employee to a Trainee job classification within the Public Safety Step Plan, the employee's pay will be reduced to the minimum pay rate of the Trainee job classification unless the Director of Human Resources approves an exception.

IX. RECLASSIFICATIONS

- A. When an employee's position is reclassified to a higher pay grade, the transaction shall be handled in the same manner as a promotion and follow the provisions outlined in Section VI of this Policy.
- B. Conversely, when an employee's position is reclassified to a lower pay grade, the transaction shall be handled in the same manner as a demotion and follow the provisions outlined in Section VIII of this Policy.
- C. A reclassification shall be effective the first day of the pay period following approval by the City Manager unless otherwise noted in the reclassification approval or annual budget.

X. MARKET ADJUSTMENTS

When an employee's position is changed to a higher pay grade due to an upgrade of the employee's job classification as a result of a market study, the employee is eligible for a pay increase. The amount of the pay increase will be determined based on relevant market data and a review of internal compensation. The Director of Human Resources will recommend appropriate adjustments to the City Manager. The City Manager must approve all market adjustments.

XI. CAREER PATH / DEVELOPMENT PROGRAMS

Career path programs with provisions for progression without competition (upon satisfying established criteria) must be reviewed by the Director of Human Resources and approved by the City Manager. Departments with approved career path programs are responsible for maintaining documentation of the approved plan and ensuring appropriate criteria have been met prior to advancement of any employee. For the purposes of this policy, career path advancements are not considered promotions.

XII. SUPPLEMENTAL PAY

In accordance with the Human Resources Classification and Compensation Plan, the City Manager may provide for additional compensation for employees through the establishment of incentive, recognition, or bonus plans. All such programs shall be under the purview of the Department of Human Resources. Such programs shall include but not be limited to the following:

A. Stipend Pay

Stipend pay programs must be reviewed by the Director of Human Resources and approved by the City Manager. A record of the complete program provisions along with the appropriate approvals shall be maintained by the requesting department, or by Human Resources if the program is City-wide or applicable to multiple departments.

B. On-Call Pay

1. General Provisions

- a. Full-time and regular part-time employees may be eligible for on-call pay. Seasonal/substitute employees are not eligible without review by the Director of Human Resources and approval by the City Manager.
- b. To be considered on-call, an employee must be placed on an on-call schedule. An on-call employee carries a personal communication device (e.g. a cell phone, pager) while on-call, is not confined to a specific location, and his or her time may be used for personal matters.

- c. The City Manager has designated certain non-exempt job classifications as eligible for on-call assignment. The Human Resources Department maintains the official list of job classifications approved for on-call assignment. If an employee's job classification is not on the official list, the employee is not eligible for on-call assignment or pay.
- d. On-call assignment requires the employee to be capable of timely contact and the ability to personally respond within a reasonable time when called or paged. The department head or designee will determine reasonable response time. If an employee fails to respond to an emergency duty call, he or she may be subject to disciplinary action.
- e. Employees on full-day sick leave are not eligible for on-call assignment or pay.
- f. Employees on annual leave may be eligible for on-call assignment or pay at the supervisor's discretion depending on the circumstances (e.g. ability to respond promptly while on leave).
- g. Employees may be provided with a City vehicle or reimbursed for mileage for each round trip required for responding to an emergency call out.
- h. In rare cases, a department-specific on-call policy may be developed to address unique departmental needs. Such policy must be submitted to the Director of Human Resources for review and requires approval of the City Manager.
- i. In the event an employee whose job classification is subject to being placed in on-call status is called to work, but the employee has not been officially placed in on-call status, he/she shall be entitled to roundtrip mileage reimbursement, if applicable, and all on-call pay provisions with the exception of on-call pay as specified in VII, B, 2, a and b.

2. Pay Provisions

- a. Employees placed in on-call status will receive two hours of pay at the employee's regular rate for the total period beyond the regular work day.
- b. Employees placed in on-call status on a Saturday, Sunday, holiday, or additional days off (granted by City Council) will receive four hours of pay at the employee's regular rate for every consecutive twenty-four hour period which falls on a weekend, holiday or additional day off.

- c. Employees who are called to work will receive their regular rate of pay for all hours worked with a minimum of two hours of pay for each occasion they are required to work, unless they are called within 30 minutes of their regular starting time. In such cases, the employee will receive regular pay for the period of time he/she spends on the call-back incident prior to his/her regular starting time and the two hour minimum pay provision (referenced in VII.B.2.c) will not apply.
- d. Compensable time begins when the employee arrives at the worksite and/or begins working and ends when the work is completed. Each call to work may involve one or more service requests.
- e. Employees who are called to work will receive a thirty minute travel allowance. Such allowance does not count toward the overtime threshold.
- f. If an employee's total hours worked for a workweek or work period exceed the overtime threshold, overtime pay provisions apply.
- g. For general employees, time compensated for on-call status (i.e. two hours or four hours) shall not be counted as hours worked for the purpose of calculating overtime. For sworn public safety personnel, time compensated for on-call status shall be counted as hours worked for the purpose of calculating overtime.

C. Temporary Acting Assignment

1. General Provisions

- a. An employee may be appointed to a temporary acting assignment in a different position on a temporary basis due to a vacancy or extended absence of the incumbent.
- b. Acting assignments for positions below the department head level shall be justified in writing and approved by the department head as well as the Directors of Human Resources and Budget prior to the commencement of the assignment. Acting assignments for department head positions must be approved by the Directors of Human Resources and Budget as well as the City Manager.
- c. Upon completion of the acting assignment, the employee will be returned to his/her former position at the grade and salary at which he/she would have been paid had the acting assignment not occurred.
- d. Normally, acting assignments shall be limited to no less than 30 days and no more than twelve months. In extenuating circumstances, a department

head may submit a request to the Director of Human Resources for an extension of the twelve month period with an anticipated ending date.

2. Pay Provisions

- a. An employee who is serving in an acting assignment which is one pay grade above the employee's current job class is eligible for a pay increase of 5%, or the minimum salary of the new position, whichever is greater.
- b. An employee who is serving in an acting assignment which is two or more pay grades above the employee's current job class is eligible for a pay increase of 10%, or the minimum salary of the new position, whichever is greater.
- c. For sworn public safety non-management employees in the step plan that are acting in assignments in grades PS07 or lower, the prescribed pay increase shall not be rounded up to the closest step in the pay grade of the assigned classification.

XIII. SPECIAL PAY ADJUSTMENTS

- A. A department head may initiate a request for a salary review and corresponding base pay adjustment for a full-time or regular part-time employee based on significant internal equity or market factor concerns by submitting a memo to the Director of Human Resources detailing the basis for the request.
- B. Such request must be reviewed and endorsed by the Director of Human Resources and approved by the City Manager.
- C. An employee shall not be eligible to receive more than one special pay adjustment within a five year period.

XIV. OVERTIME

- A. The authorization and control of all overtime work is the responsibility of the department head. Overtime assignments are permitted when required by operational necessity and without which the normal functioning of the agency concerned would be adversely affected. Department heads must ensure that adequate funds are available for payment of overtime prior to authorization.
- B. Department heads have the discretion to designate in writing the method of providing overtime, i.e. pay or leave, to eligible employees for all overtime hours worked; however, the type of overtime compensation selected must be consistently applied to all eligible employees. The type of overtime compensation must be designated before overtime hours are worked. New employees must be informed of the method of overtime compensation

- (leave or pay) and sign an acknowledgment of same upon accepting employment.
- C. If a department's non-exempt or partially exempt employees are allowed to choose which overtime method they prefer (leave or pay), such designation may only be changed twice per year, in January and July, and must be in writing. Documentation of such change will be maintained by the Finance Department.
 - D. Overtime leave balances are cumulative and, therefore, will carry over from year to year until the FLSA ceilings are reached. Overtime leave that exceeds the FLSA ceiling must be paid. Employees have discretion on the use of overtime leave unless the use of such leave would result in an undue hardship in the provision of City services. Department heads may direct employees to use accumulated overtime leave, or they may pay out any portion of an employee's accumulated overtime leave balance at any time.
 - E. An employee in a non-exempt or partially exempt position transitioning to an exempt position or transferring to another department will have any overtime leave balance paid out at the time of the transition.
 - F. Department heads are responsible for the maintenance of accurate records of hours worked by employees that conform to the requirements of the FLSA.
 - G. Non-exempt and/or partially exempt employees shall be eligible for overtime/additional compensation as follows:
 - 1. Non-exempt employees working a regularly scheduled workweek of 40 hours shall receive either (1) overtime pay at one and one-half times their regular rate of pay or (2) overtime leave at the rate of one and one-half times the hours worked for all hours worked in excess of 40 in a given workweek.
 - 2. In accordance with Virginia Code §9.1-701, partially exempt employees working a work period of regularly scheduled hours equal to or fewer than the overtime standard set by the FLSA shall receive overtime pay or overtime leave for all hours in a paid status beyond those regularly scheduled.
 - 3. Partially exempt employees working a work period of regularly scheduled hours in excess of the standard set by the FLSA shall receive additional compensation of one-half times their regular rate of pay or one-half hours of leave for each hour in their regularly scheduled work period which exceeds the overtime standard set by the FLSA. For example, currently the Fire Department's FLSA work period is 21 days with 168 regularly scheduled hours. The FLSA overtime standard for a 21 day work period for firefighters is 159 hours. Firefighters who work 168 hours in their 21 day work period are entitled to additional compensation of one-half times their regular rate for the nine hours they worked over the FLSA overtime standard or four and one-half hours of overtime leave. Their regular salary provides the base pay for those extra hours, since they are regularly scheduled hours. They shall be paid at

one and one-half times their regular rate of pay for all hours worked in excess of their regularly scheduled number of hours for the work period or receive overtime leave at the equivalent rate.

4. Non-exempt employees whose normal work schedules would not require working holidays will be compensated by pay or overtime leave at the rate of one and one-half times their regular rate of pay for all hours actually worked on such days.
 5. For non-exempt employees, holiday leave does not count toward the overtime threshold.
 6. Partially exempt employees who are required to make job-related court appearances while off duty will receive overtime pay or leave for all court time.
- H. A non-exempt or partially exempt employee's regular rate of pay shall include all remuneration for employment with the exception of statutory exclusions.

XV. IMPROPER PAY DEDUCTIONS

No overtime leave or pay provisions set forth in this policy shall be in conflict with what is allowed under the FLSA. Improper pay deductions are prohibited. Any employee who feels he/she has been subjected to such deductions should notify his/her supervisor and request that appropriate corrections be made. The remedy shall be full reimbursement of the improper deduction(s) to the employee.

XVI. EFFECTIVE DATE

All personnel transactions impacting an employee's pay are effective the first day of the pay period following approval, unless otherwise indicated. Exceptions require a written request to the Director of Human Resources. In the event of a request for exception, the transaction should not be shared with the employee in advance of the approval.

XVII. RED CIRCLED RATE

If an employee's salary reaches or exceeds the maximum of the pay grade to which he/she is assigned, the employee shall be considered to be at a 'red circled' rate and shall not be eligible for any type of base pay increase until the maximum rate of the pay grade is higher than the employee's salary. This provision does not apply to an employee's rate of pay while serving in a temporary assignment as referenced in Section XI (C) of this Policy.

XVIII. COMPENSATION FOR HOURS WORKED

Generally, a non-exempt or partially exempt employee should not perform work beyond his/her scheduled work hours without prior authorization unless such time is infrequent and considered

de minimis (i.e. minor/trivial), such as seven minutes or less. However if an employee does perform such work, with or without prior authorization, the employee must be compensated for such time. Any non-exempt or partially employee who performs work beyond his/her scheduled work hours without prior authorization may be counseled or disciplined, as appropriate, for such action.

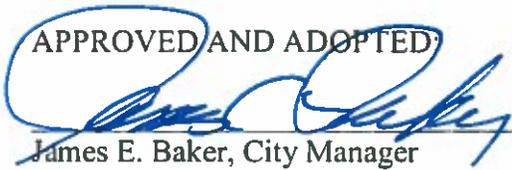
APPROVED AS TO FORM AND CONTENT:



Dana E. Sanford, Deputy City Attorney

7.27.2017

Date

APPROVED AND ADOPTED:


James E. Baker, City Manager

8/2/2017

Date