

U.S. NUCLEAR REGULATORY COMMISSION MANAGEMENT DIRECTIVE (MD)

MD 10.41 PAY ADMINISTRATION

DT-18-10

Volume 10: Personnel Management

Part 2: Position Evaluation and Management, Pay Administration, and Leave

Approved By: Miriam L. Cohen
Chief Human Capital Officer

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Issuing Office: Office of Chief Human Capital Officer
Policy, Labor, and Employee Relations Branch

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EXECUTIVE SUMMARY

Management Directive (MD) 10.41, "Pay Administration," replaces Manual Chapter 4130-C and consolidates the pay administration guidance from MD 10.36, "Position Evaluation and Pay Administration." Therefore, MD 10.36 is being eliminated. The position evaluation guidance and Senior Level pay administration guidance were previously consolidated in to MD 10.37, "Position Evaluation and Benchmarks" and MD 10.145, "Senior Level System," respectively.

MD 10.41 has been revised to—

- Consolidate and update policy and program guidance;
- Remove detailed information about the laws and regulations, except where it is needed (for example, to provide context for policy and program guidance);
- Remove policy and guidance for positions graded 16-18, which has been superseded by the creation of Senior Level positions;
- Remove policy and guidance for locality rate employees, whom the NRC no longer employs; and
- Remove pay table exhibits and procedural guidance, which are now available on the Office of the Chief Human Capital Officer's Web site.

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I. POLICY

It is the policy of the U.S. Nuclear Regulatory Commission to implement pay administration for positions exempted by the NRC from the civil service laws under the authority of Section 161.d of the Atomic Energy Act of 1954, as amended, and statutory NRC positions authorized in 5 U.S.C. 5313-5314. For matters not addressed in this policy, the NRC follows Federal law and regulations.

II. OBJECTIVES

- Provide policy, direction, and guidance on pay administration that permits the NRC to attract and retain employees while maintaining reasonable comparability with Federal and other employers.
- Use Section 161.d of the Atomic Energy Act of 1954, as amended, prudently and judiciously to ensure equal pay is given for work of substantially equal value.

III. ORGANIZATIONAL RESPONSIBILITIES AND DELEGATIONS OF AUTHORITY

A. Chairman

Approves exception to pay rate procedures for new and current employees as outlined in Section I.C.3 of this directive, when proposed rate exceeds the maximum step rate of

General Grade (GG)-15, and upon recommendation of offices and personnel reporting to the Chairman, Commission, or Commissioners, with the advice of the Chief Human Capital Officer (CHCO).

B. Executive Director for Operations (EDO)

1. Upon recommendation of the CHCO, approves adjustments to the NRC General Grade Salary Schedule, special salary rates for law enforcement officers, and locality based adjustments.
2. Grants prior approval of grade retention for individuals who are otherwise eligible and who move voluntarily to a lower graded position under the circumstances specified in Section IV.B.3 of the directive handbook.
3. Approves exceptions to pay rate procedures for new and current employees, as specified in Section I.C.3 of the directive handbook, when the proposed rate exceeds the maximum step rate of GG-15, upon recommendation of offices and personnel reporting to the Executive Director for Operations (EDO) and with advice of the CHCO.

C. Inspector General (IG)

Directs the implementation of, and approves exceptions to, the agency's pay administration policy and programs for employees of the Office of the Inspector General.

D. Chief Human Capital Officer (CHCO)

1. Analyzes regular and special salary schedules (including special salary schedules issued by the Office of Personnel Management (OPM)) to determine their applicability to the NRC's needs for the recruitment and retention of employees.
2. Approves revisions to special salary schedules (including special salary schedules issued by OPM). This authority may not be delegated.
3. Approves routine periodic adjustments to the NRC General Grade Salary Schedule, special salary rates for law enforcement officers, and locality based adjustments and recommends any other types of adjustments to the EDO. This authority may not be delegated.
4. Approves step rates above step 1 in appointments by application of maximum previous rate rule or discretionary grade and pay retention for employees in their organization with current or previous Federal service.
5. Prescribes standards, guides, procedures, and forms for pay administration in the NRC and provides staff advice and assistance.
6. Provides concurrence and advice on pay administration for salary setting.

7. Approves exceptions to pay rate procedures for new and current employees as specified in Section I.C.3 of the directive handbook, when the proposed rate does not exceed the maximum step rate of GG-15, upon recommendation of an office director or regional administrator. This authority may not be delegated.

E. Office Directors and Regional Administrators

(For personnel reporting directly to the Chairman, Commissioners, and EDO are considered "Office Directors.")

1. Recommends exceptions to pay rate procedures for new and current employees as specified in Section I.C.3 of the directive handbook. This authority may not be delegated.
2. Advises the CHCO whenever a recruitment or retention difficulty develops that may justify adoption or revision of a special salary schedule.
3. Recommends pay setting for selectees in their organization to the appropriate approving authority, including salary exceptions to the GG salary schedules. Office directors and regional administrators may delegate this authority to lower-level supervisors or official team leaders.
4. With the concurrence of the Human Resources Specialist, approves step rates above step 1 in appointments by application of maximum previous rate rule or discretionary grade and pay retention for employees in their organization with current or previous Federal service. Office directors and regional administrators may delegate this authority to lower-level supervisors or official team leaders.
5. Approves within-grade increases for GG employees in their organization, subject to review for compliance with policy by the Human Resources Specialist. Office directors and regional administrators may delegate this authority to lower-level supervisors or official team leaders.

F. Supervisors and Official Team Leaders

1. Consistent with authorities delegated by the office director or regional administrator, recommends pay setting for selectees in their organization.
2. Consistent with authorities delegated by the office director or regional administrator, and with the concurrence of the Human Resources Specialist, approves step rates above step 1 in appointments by application of maximum previous rate rule or discretionary grade and pay retention for employees in their organization with current or previous Federal service.
3. Consistent with authorities delegated by the office director or regional administrator, approves within-grade increases for GG employees in their organization, subject to review for compliance with policy by the Human Resources Specialist.

IV. APPLICABILITY

A. The policy and guidance in this MD apply to all NRC employees except the following:

1. Administrative Judges (see MD 10.153, “Administrative Judges - Compensation and Staffing”).
2. Members of the Senior Executive Service (see MD 10.135, “Senior Executive Service (SES) Employment and Staffing Programs”).
3. Senior Level Employees (see MD 10.145, “Senior Level System”).
4. Experts and consultants (see MD 10.6, “Use of Consultants and Experts”).

B. Where the provisions of the “NRC and National Treasury Employees Union Collective Bargaining Agreement” are in conflict with this MD, the provisions of the agreement govern with reference to bargaining unit employees.

V. DIRECTIVE HANDBOOK

Handbook 10.41 contains pay administration policy and program guidance.

VI. REFERENCES

Code of Federal Regulations

- 5 CFR Part 531, “Pay Under the General Schedule.”
- 5 CFR Part 536, “Grade and Pay Retention.”
- 5 CFR Part 550, “Pay Administration (General).”
- 5 CFR Part 551, “Pay Administration Under the Fair Labor Standards Act.”
- 5 CFR Part 837, Subpart C, “Coverage and Contributions.”
- 5 CFR Part 930, Subpart B, “Administrative Law Judge Program.”

Nuclear Regulatory Commission Documents

NRC Commissioner’s Assistant Handbook NUREG/BR-0201, Rev 2
<http://www.fusion.nrc.gov/ochco/team/PDF/Executive/comm-asst-handbook.pdf>.

NRC Web Site on Pay Schedules: <http://drupal.nrc.gov/ochco/catalog/31650>.

NRC and National Treasury Employees Union Collective Bargaining Agreement, available at <https://www.nrc.gov/docs/ML1609/ML16092A326.pdf>.

NRC Management Directives—

10.6, “Use of Consultants and Experts.”

- 10.37, "Position Evaluation and Benchmarks."
- 10.67, "General Grade Performance Management System."
- 10.72, "Awards and Recognition."
- 10.101, "Employee Grievances."
- 10.103, "Reduction in Force for Non-SES Employees."
- 10.135, "Senior Executive Service (SES) Employment and Staffing Programs."
- 10.145, "Senior Level System."
- 10.153, "Administrative Judges - Compensation and Staffing."

OCHCO Web site, Administratively Determined Exceptions Fact Sheet Procedures:
<http://fusion.nrc.gov/ochco/team/PDF/administratively-determined-exceptions.pdf>.

United States Code

- Atomic Energy Act of 1954, as amended (Pub. L. 83-703).
- Energy Reorganization Act of 1974, as amended (Pub. L. 93-438).
- Appointment of Administrative Law Judges (5 U.S.C. 3105).
- Classification (5 U.S.C. Chapter 51).
- Pay Rates and Systems (5 U.S.C. Chapter 53).
- Pay Administration (5 U.S.C. Chapter 55).

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<i>Contact Name:</i>	Bi Smith	Servicing Human Resources Specialist (names and phone numbers are listed here)
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I. SALARY SCHEDULES AND RATES

U.S. Nuclear Regulatory Commission salary schedules are issued, normally annually, and can be found at <http://drupal.nrc.gov/ochco/catalog/31650>. NRC employees are paid in accordance with the appropriate schedule of rates, or an administratively determined (AD) rate, as described in Section II.E of this handbook.

A. Commission Members

Positions for the Chairman and Commissioners are authorized by 5 U.S.C. 5313-5314. The Chairman and Commissioners shall be paid in accordance with applicable Federal laws and Executive Orders. Pay commences on the date Commission members are sworn into office, irrespective of the reporting date for work.

B. Administrative Law Judges

Administrative Law Judges appointed under 5 U.S.C. 3105 are subject to Chapter 51 Title 5 U.S.C. Administrative Law Judges shall be paid in accordance with 5 CFR, Part 930, Subpart B. Administrative Law Judges are separate and apart from Administrative Judges, who are more commonly appointed at the NRC, and are covered by Management Directive (MD) 10.153, "Administrative Judges - Compensation and Staffing."

C. General Grade Employees

Most NRC employees are in positions under job evaluation systems with grade designations and associated salary schedules. The NRC classifies the grade of each job based on the level of difficulty, responsibility, and qualifications required (see MD 10.37, "Position Evaluation and Benchmarks" for further details).

1. Salary Schedules

- (a) General Grade (GG) Salary Schedule. This schedule applies to most NRC positions unless the position is covered by a Special Salary Schedule described below. The GG is normally identical to that in 5 U.S.C. 5332(a), from which NRC is exempt. The GG Salary Schedule has 15 grades, GG-1 (lowest) to GG-15 (highest).
- (b) Special Salary Schedules. NRC designs and establishes its own Special Salary Schedules when it has determined that the GG Salary Schedule rates of pay are not competitive to recruit and retain high quality employees. The Chief Human Capital Officer (CHCO) will make an independent analysis of available data, including each special schedule issued by the Office of Personnel Management (OPM) to determine its applicability to the NRC's needs for the recruitment and retention of employees. Office directors and regional administrators will advise the CHCO whenever a recruitment or retention difficulty develops that may justify adoption or revision of a special salary schedule.
 - (i) OPM Special Rate Tables. The NRC may adopt, in whole or in part, special rate tables issued by OPM. These tables are established for a group or category of General Schedule (GS) positions in one or more geographic area to address existing or likely significant difficulty in recruiting or retaining well-qualified employees.
 - (ii) NRC Special Salary Schedules. To aid in recruitment or retention of employees, the NRC may establish or revise a Special Salary Schedule for any grade or grades of the General Salary Schedule for application to positions in a particular occupational group or line of work (nationwide or in a particular location).

2. Locality Rates. Locality rates are a percentage of salary in addition to the GG Salary Schedule or AD rate, as described in Section II.E of this handbook. A locality rate is dependent on the employee's official worksite and is a geographic-based percentage rate that reflects pay levels for non-Federal workers in certain geographic areas as determined by surveys conducted by the U.S. Bureau of Labor Statistics. The maximum rate of base pay plus locality cannot exceed Executive Schedule (EX)-IV.

- (a) The NRC normally conforms to the locality pay definitions established by the OPM on a voluntary basis, unless it determines that it is not competitive in the locality for the high quality candidates required to meet the NRC's needs. This conformance permits direct use by the NRC of the locality rates issued for application by all Federal agencies that are actually covered by the system.
- (b) Locality rates are not applicable to Special Salary Schedules unless otherwise specified. If an employee is covered by a Special Salary Schedule that does not

include locality rates and the rate of basic pay is lower than the basic rate of pay for the GG Salary Schedule plus locality at the employee's official worksite, the employee will be removed from the Special Salary Schedule and be placed in the GG Salary Schedule at the higher rate of basic pay.

3. Salaries With or Without Grades and/or Steps. The NRC has authority under Section 161.d of the Atomic Energy Act of 1954, as amended (as continued by the Energy Reorganization Act of 1974, as amended), to exempt itself from the Classification Act of 1949 (5 U.S.C. 51) with regard to the classification and pay of its employees whose positions would otherwise be covered by Chapter 51. Further details on this authority are provided in Section II.E of this handbook.

D. Pay Computation Rules for Basic Rates of Pay

Aside from Commission members, the following pay computation rules apply:

1. The basic per annum rate for an NRC full-time employee is considered as payment for employment during 26 pay periods, each consisting of 80 hours of regularly scheduled work.
2. Employees will be paid at 2-week intervals for a pay period that consists of 2 consecutive administrative work weeks.
3. The basic hourly rate is 1/2087th of the annual rate. If any fraction of a cent results, this is adjusted to the nearest cent, counting one-half cent and over as a whole cent.
4. The basic biweekly rate is derived by multiplying the hourly rate of pay by 80 for full-time employees (or by the number of hours worked during the pay period for employees on schedules other than full-time).

E. Fair Labor Standards Act

The Fair Labor Standards Act (FLSA), as amended (see 5 CFR Part 551), provides minimum standards for wages and overtime entitlements, and administrative procedures by which covered worktime must be compensated. Employees who are determined to be FLSA nonexempt are covered by the provisions of FLSA. Determinations of FLSA-exempt or FLSA-nonexempt status are determined during position evaluations as outlined in MD 10.37, "Position Evaluation and Benchmarks."

F. Pay Limitations

The NRC is covered by Federal regulations and laws related to the following:

1. Statutory Limitation on Premium Pay. See 5 CFR Part 550, Subpart A.
2. Limitation on Pay from More Than One Civilian Office or Positions. See 5 CFR Part 550, Subpart E.

3. Limitation on Pay in Case of Re-employment of Retired Federal Employees.
See 5 CFR Part 837, Subpart C.

II. PAY SETTING FOR GG EMPLOYEES

The NRC is not covered by most Governmentwide rules and regulations pertaining to pay setting. However, the NRC often parallels requirements and entitlements concerning pay setting as set forth in 5 CFR, Part 531, Subpart B, which may be used for further reference. If this subpart specifically conflicts with a stated NRC policy or procedure, the NRC policy or procedure prevails.

A. Appointments

When an individual is appointed to a position in the NRC for the first time, the pay will be set at the minimum step rate of the appropriate grade in the appropriate salary schedule unless one of the situations below apply.

1. Employees appointed to positions on the NRC Special Salary Schedules may have their pay set at a higher step and rate above the minimum. Please refer to the specific NRC Special Salary Schedule for the employee's position for further details. NRC Special Salary Schedules can be found at <http://drupal.nrc.gov/ochco/catalog/31650>.
2. Salary exceptions may be used to allow a step higher than the minimum step of the grade (including higher starting steps established on NRC Special Salary Schedules) when it is determined to be in the best interest of the NRC. This exception is not intended to persuade a Federal employee to accept a lateral transfer or to recompense an employee for a loss of premium pay as a result of a change in either position or work schedule. Factors that may be used to support salary exceptions include, but are not limited to—
 - (a) The candidate's experience, qualifications, and achievements;
 - (b) Pre-appointment screening and reference checks;
 - (c) The candidate's current employment status, salary, and fringe benefits;
 - (d) The candidate's salary requirements and/or competing offers; and/or
 - (e) The scope and intensity of the search for highly qualified candidates.
3. The maximum payable rate rule may be used to set an employee's rate of pay at any step of the grade up to and including the highest rate of pay previously received in another Federal job when the previous rate does not exceed the maximum rate of the grade.

- (a) The NRC shall follow the same governmentwide rules and regulations to determine the employee's highest previous rate unless in conflict with guidance in an NRC Special Salary Schedule. In such situations, NRC policies and procedures prevail.
 - (b) Normally, the highest previous rate should be considered when—
 - (i) The work and conduct record of the individual is satisfactory, and
 - (ii) The training and experience gained at the highest previous pay rate can be anticipated to make a substantial contribution in the performance of the duties of the new position. The highest previous rate should not normally be applied after a long absence from work (such as over 2 years in professional or related fields of work or over 10 years in clerical work), where recent related experience is lacking or if a new type of work is to be done.
 - (c) When an employee is appointed at the same grade held immediately prior to appointment, the employee shall normally receive the step of the grade held by the employee in the former agency.
 - (d) When an employee is appointed to a lower grade than the grade held immediately prior to appointment with the likelihood of repromotion back to the former grade within 6 months, the employee shall be placed in a rate no higher than the rate in the lower grade that, upon repromotion, will place the employee in the rate in the higher grade which the employee would have attained had the employee remained in that grade.
4. An appointee who has been under grade or pay retention in his or her position immediately before being appointed to the NRC shall be entitled to continue grade or pay retention, as applicable, in accordance with Section IV of this handbook. If the appointee presents evidence acceptable to the NRC that he or she would be reduced in grade or separated due to a reduction-in-force (RIF) action if he or she remained in the losing agency, the appointee may be granted grade and/or pay retention, as applicable, in accordance with Section IV of this handbook, if the approving official and Human Resources Specialist determine that this would be in the best interest of the NRC.
 5. When an employee is appointed by transfer from another Federal agency, without a break in service, and is appointed to a position at a higher grade than previously held, the rate of basic pay will be determined in accordance with Section II.B of this handbook.
 6. When an individual is appointed to the NRC from a position with a salary outside of the General Schedule in a paybanded position, the appointee's rate will be converted as determined below.

- (i) If the position is established pursuant to an OPM-authorized demonstration project, the former agency is required to convert the individual to a GS position before the individual moves to the NRC. Once a grade is determined, pay will be set following the paysetting guidance described above.
- (ii) If the position was established pursuant to an agency's unique statutory authority, the losing agency is not required to, but may, convert the individual to a GS position before moving out of the paybanded system:
 - If the agency converts the individual to a GS position, pay will be set in accordance with the demonstration project guidance described in Section II.A.7(i) of this handbook.
 - If the agency does not convert the individual to a GS position, the appointee's pay will be determined by the following steps:
 - Compare the appointee's highest previous rate to the highest applicable rate range in effect at the time and place where the highest previous rate was earned. The highest applicable rate range is determined as if the appointee held the current GG position of record (including the grade in which pay is being set) at that time and place.
 - Convert the appointee to the lowest grade of the pay band for which the appointee's salary does not exceed the 10th step of that grade.
 - Find the lowest step in that grade that is equal to or greater than the appointee's highest previous rate.

7. Effective Date of Appointment

When an appointee on a regular work schedule enters on duty on a Monday, or on a Tuesday when the preceding Monday was a legal Federal holiday (or day observed by Federal employees in lieu of a legal Federal holiday), the effective date of the appointment will normally be the preceding Sunday, provided the appointee has accepted the appointment prior to the Sunday. In cases when the Monday is a holiday (or day observed in lieu of a holiday), and the appointment was made effective Sunday, the appointee who enters on duty on the Tuesday is entitled to pay for the Monday holiday.

B. Promotions

1. Most GG employees who are promoted to a position in a higher grade will be entitled to the basic pay at the lowest rate of the higher grade that exceeds his or her existing rate of basic pay by not less than two step increases of the grade from which promoted. This is known as the two-step promotion rule and is applied using one of two methods.

- (a) The standard method is applied if an employee is covered by the same pay schedules before and after promotion.
 - (b) The alternate method is applied if the employee is covered by different pay schedules before and after promotion and if the alternate method will produce a higher payable rate upon promotion than the standard method.
2. An employee may be eligible for a higher rate of pay than the two-step promotion rule by applying the maximum payable rate rule described in Section II.A.4 of this handbook.
3. Employees who are on NRC Special Salary Schedules may have their salary set differently upon promotion. Please refer to the specific [NRC Special Salary Schedule](#) for the employee's position for further details.
4. Former Resident Inspectors on saved pay will have their salary set upon promotion in accordance with Section V of this handbook.
5. When an employee is receiving a retained rate of pay as described in Section IV and is promoted, pay setting practices will be consistent with Section IV of this handbook.

C. Change to Lower Grade

1. Involuntary Change to Lower Grade
 - (a) If an employee is eligible for grade and/or pay retention, see Section IV of this handbook.
 - (b) If an employee is not eligible for grade and/or pay retention, and the change to lower grade is a consequence of performance or conduct deficiencies; or upon consent of the employee to a demotion instead of action for such causes, the employee's pay rate in the lower position may be established at the first step of the grade, or at any step of the grade using the employee's highest previous rate as described in Section II.A.4 of this handbook. The new step increase waiting period, if applicable, shall begin on the effective date of the action.

2. Voluntary Change to Lower Grade

When an employee requests or voluntarily agrees to a change to lower grade for his or her personal convenience, the action does not provide an equivalent increase nor start a new waiting period for regular within-grade increases in the lower grade. The employee's pay rate will be—

- (a) The first step of the grade, or at any step of the grade using the employee's highest previous rate as described in Section II.A.4 of this handbook.

- (b) When an employee requests a change to lower grade with the likelihood of repromotion back to the former grade within 6 months, the employee shall be placed in a rate no higher than that rate in the lower grade that, upon repromotion, will place the employee in the rate in the higher grade which the employee would have attained had the employee remained in that grade.
 - (c) See Section IV of this handbook for regulations concerning applicability of grade and/or pay retention.
3. Termination of Temporary Promotion
- (a) Upon termination of a temporary promotion, the employee's rate of basic pay and step for the lower grade will be recomputed as if the employee had never been temporarily promoted. If the employee was temporarily promoted for at least a year, the agency may also use the temporary promotion's rate of basic pay as the employee's highest previous rate described in Section II.A.4 of this handbook.
 - (b) If a temporary promotion is made permanent immediately after the temporary promotion ends, and there is no period of time between the end of a temporary promotion and the beginning of a permanent promotion, the employee is not returned to the lower grade for pay setting purposes. The agency must convert the temporary promotion to a permanent promotion with no change in pay. The permanent action does not provide an equivalent increase and it does not start a new waiting period for a within-grade increase.

D. Reassignments

Except for the conditions below, when an employee is reassigned from one position to another position in the same grade and in the same pay system, the employee's step in the grade shall remain the same except in the following situations:

1. Former Resident Inspectors eligible for saved pay should refer to Section V of this handbook.
2. When an employee is reassigned from a position to which an NRC Special Salary Schedule or an OPM special rate table applies to a schedule where a lower rate applies—
 - (a) If the change is considered to be in the best interest of the NRC rather than at the employee's request, and is not due to the employee's conduct or performance deficiencies, the employee is eligible to retain his or her pay as outlined in Section IV, C of this handbook. Determinations will be made on a case--by--case basis, documented in writing, and filed in the temporary folder of the employee's official personnel folder (OPF). This does not apply to Resident Inspectors who are reassigned and do not meet saved pay provisions.

- (b) If the change is primarily at the employee's request or for the employee's personal convenience, the employee shall keep the step number in the grade and be reduced in pay. The circumstances permitting such a change should be recorded in writing, signed by the employee, and filed in the temporary folder of the employee's OPF.
 - (c) If the change is due to the employee's conduct or performance deficiencies, the employee's pay rate in the new position will be one of the following:
 - (i) The current step number in the grade and be reduced in pay;
 - (ii) A higher step that allows the employee to keep his or her basic rate of pay, as long as the pay is not above the maximum step rate in the grade for the new position. If the employee's current basic rate of pay falls between two steps in the grade for the new position, the higher step shall be selected; or
 - (iii) At any step in the new position that falls between the current step and the new higher step derived from the employee's current rate of basic pay.
3. The employee may be eligible for a higher rate by application of the maximum payable rate rule described in Section II.A.4 of this handbook.

E. Exceptions to Prescribed Pay Procedures

1. The NRC has exercised authority under Section 161.d of the Atomic Energy Act of 1954, as amended (as continued by the Energy Reorganization Act of 1974, as amended), to except itself from the Classification Act of 1949 (5 U.S.C. 51) with regard to the classification and pay of its employees whose positions would otherwise be covered by Chapter 51.
 - (a) Under Section 161.d of the Atomic Energy Act of 1954, as amended, NRC was given the latitude and discretion to appoint personnel to scientific and technical positions at a salary not to exceed the maximum rate payable of Executive Level IV (EX-IV). This generic authority is often referred to as the agency's "scientific and technical pay authority" and is used in limited cases when it is necessary to attract and retain highly qualified employees who are required to carry out the agency's mission, program, and projects.
 - (b) A new appointment to a graded nontechnical GG-1-15 position may be at a rate other than a scheduled step rate, provided that the rate falls between the lowest and highest steps of the position.
2. The AD rates of pay may be used as an exception to prescribed pay procedures when it is determined to be in the best interest of the NRC and approved using the general guidance found on the [OCHCO's intranet site](#) under the following situations:
 - (a) For appointments as described in Section II.A of this handbook, or;

- (b) For current employees.
3. After an initial AD rate described in Section II.E.2 of this handbook is established, the following pay changes apply as long as the employee remains in the same position:
- (a) The basic pay of an employee in an AD position is comprised of two parts: a base pay and a locality pay.
 - (i) An employee on an AD rate of pay is not entitled to any general (comparability) increase to base pay that graded employees receive (usually occurs in January).
 - (ii) An employee on an AD rate of pay is covered by locality rates. Any changes due to either a change in the employee's official worksite or a change in the geographic-based percentage rate will be reflected in the employee's basic salary, up to the maximum rate payable under AD rates of pay (i.e., the EX-IV rate for scientific/technical positions or the maximum of the step 10 for a nonscientific position). This usually occurs in January in conjunction with the general (comparability) increase.
 - (b) An employee is not eligible for within grade increases by the individual nature of the rates of pay to employees of these positions.
 - (c) An employee of this position shall receive a salary review during each performance appraisal in accordance with MD 10.67, "General Grade Performance Management System."
 - (i) Due to the pay setting practices for these positions, there is no presumption of an entitlement to an increase upon each performance appraisal.
 - (ii) The supervisor should consider the general (comparability) increase for graded employees along with the evaluation of the performance of the individual in making a recommendation for a salary increase.
 - (iii) Recommendations for pay changes should be fully justified in accordance with Section II.E.2 of this handbook in a memorandum to the CHCO, who will analyze the justification and recommend or approve, as appropriate.
 - (d) If the employee is promoted, the employee is entitled to a 2-step increase (based on the rate of the employee's current grade) on top of his or her current base salary up to the maximum of the new grade.
 - (i) If the new rate of pay is below the employee's current salary, the office/region should consult with OCHCO to discuss if pay retention as described in Section IV.C of this handbook.
 - (ii) The office/region may also request another AD rate of pay as described in Section II.E.2 of this handbook.

4. If an employee moves to a new position after an initial AD rate described in Section II.E.2 of this handbook is established, the following pay changes apply:
 - (a) When the employee moves from one position to another at the same grade or lower, the salary should be reviewed to see if it is still appropriate to remain as at an AD rate of pay.
 - (b) When the employee moves from one position to another upon promotion, the employee receives a 2-step increase (based on the rate of the employee's current grade) on his or her current base salary up to the maximum rate of the new grade. The office/region may also request an exception for a different salary rate by submitting another AD exception request. If the new rate of pay is below the employee's current salary, the office/region should consult with OCHCO to discuss if pay retention as described in this MD is appropriate.

F. Simultaneous Actions

When an employee becomes entitled to more than one salary change at the same time, the changes will be processed in the following order:

1. General pay adjustments,
2. Geographic conversion,
3. Within-grade increase,
4. High quality increase (HQI),
5. Promotion, and
6. Process any other remaining pay action in the order that provides the employee the maximum benefit.

III. GG STEP INCREASES

Within-grade increases are periodic increases in a GG employee's rate of basic pay from one step of the grade of his or her position to the next higher step of that grade, up to Step 10.

A. Basic Concepts

1. It is the policy of the NRC to provide step increases to compensate an employee for performance at "an acceptable level of competence." Employees may also receive a step increase known as an HQI for periods of performance rated as Outstanding in accordance with MD 10.72, "Awards and Recognition."

2. The NRC is not covered by 5 U.S.C. 5331 or by the Governmentwide rules and regulations pertaining to within-grade increases. However, aside from the determination of satisfactory conduct described below, the NRC generally parallels requirements and entitlements concerning within-grade increases as set forth in 5 CFR 531, Subpart D, which may be used for further reference unless that guidance specifically conflicts with a stated NRC policy or procedure, in which case, the NRC policies and procedures prevail.

B. Criteria

A permanent NRC GG employee below step 10 of his or her current grade normally earns a within-grade increase by meeting the following conditions:

1. The employee's most recent rating of record must be at an acceptable level of competence (i.e., at least Fully Successful);
2. The employee must have completed the required waiting period for advancement to the next higher step of the grade as set forth in 5 CFR Part 531;
3. The employee must not have received an equivalent increase during the waiting period; and
4. There is a determination of satisfactory conduct during the waiting period.

C. Equivalent Increase Determinations

The NRC parallels 5 CFR Part 531 equivalent increase determinations except for the following:

1. If an employee receives a repromotion (or appointment by transfer from another Federal agency) to a grade and step at or below one formerly held by the employee, the repromotion is not considered an equivalent increase unless the employee was downgraded from that grade and step for personal cause (i.e., based on conduct deficiencies or unacceptable performance of the employee).
 - (a) Scenario 1: An employee received a within-grade increase (in another agency) to GS-13/8 in October 2015. In December 2015, the employee was separated by a RIF. In February 2016, the employee accepts an appointment in the NRC to a position as the GG-12/10 level. On June 2017, the employee is promoted to the GG-13/8 step because the employee had previously held the step 8. This repromotion does not constitute an equivalent increase, and the time previously spent at the GS-13/8 will count towards the 3-year waiting period for the next step increase to GG-13/9.

- (b) Scenario 2: An employee received a within-grade increase to GG-13/8 in October 2014. In December 2014, the employee was downgraded to GG-12/10 for personal cause (unacceptable performance). In February 2018, the employee is repromoted to GG-13/8. The repromotion would constitute an equivalent increase.
2. A step increase granted as a HQI does not affect the timing of the next regular within-grade increase, unless the HQI places the employee in step 4 or 7 of his or her grade. In these cases, the employee must complete the full waiting period for the new step (104 weeks for steps from 4-6 or 156 weeks for steps from 7 - 9). The time an employee had already waited counts toward the next step increase.
- (a) Scenario 1: An employee received her last step increase to step 3 in November 2016. In October 2017, the employee received an HQI to step 4. The employee is not eligible for the next within-grade increase to step 5 until November 2018.
- (b) Scenario 2: An employee received his last step increase to step 3 in November 2016. In October 2017, the employee is selected to receive an HQI. Since the next within-grade increase is due November 2017, the employee requests to hold the HQI until after the within-grade increase is effected. In November 2017, the employee receives the next within-grade increase to step 4. The same pay period, the employee receives the HQI to step 5.
3. An increase granted by the Chairman, Executive Director for Operations, or the CHCO under authority to approve exceptions to salary practices is considered an equivalent increase, unless the Standard Form (SF) 50 contains a statement to the effect that the exception does not represent an equivalent increase for purposes of within-grade step increases.

D. Acceptable Level of Competence Determinations

1. A step increase shall not be granted automatically upon completion of the required waiting period, unless it meets one of the conditions outlined in 5 CFR Part 531.
2. Approximately six pay periods before an employee will presumably have completed the period of creditable service for the next step rate in the grade, OCHCO will submit to the appropriate office or division (or other major organizational unit) a within-grade increase notification form for transmittal to the employee's supervisor.
3. An employee's supervisor must certify that the employee is eligible for a within-grade increase because the work of the employee has been at an acceptable level of competence and that conduct has been satisfactory.
4. An acceptable level of competence determination may be delayed when the employee is the subject of an ongoing investigation for alleged misconduct that is unresolved at the end of the required waiting period.

E. Waiver of Requirement for Acceptable Level of Competence Determinations

An acceptable level of competence determination shall be waived and a within-grade increase granted when an employee has not served in any position for 120 calendar days during the final 52 calendar weeks of the required waiting period for one or more of the following reasons:

1. Periods of absence that are counted as creditable service in the computation of a waiting period or periods.
2. Details to another agency or employer for which no rating has been prepared.
3. For long-term training. In such situations, there shall be a presumption that the employee would have performed at an acceptable level of competence had the employee performed the duties of his or her position of record.

F. Denial of Within-Grade Increases

1. When a supervisor determines that a step increase may not be warranted at the time the employee will complete the required period of creditable service, the supervisor shall consult with the servicing Employee and Labor Relations Specialist (ELR) in the Policy, Labor and Employee Relations Branch (PLERB), OCHCO.
2. The supervisor shall then inform the employee in writing, as explained below, of the determination that the increase may not be warranted, and that the supervisor will make a decision whether or not to deny the increase no later than the date the employee completes the required waiting period.
3. The written notice shall be given to the employee as far in advance of the date the employee will complete the required period of creditable service as is practicable. (When practicable, this should be done at least 60 calendar days in advance of the date the employee will complete the period of creditable service.)
 - (a) This advance written notice is not appealable or grievable under an agency appeal procedure.
 - (b) Failure to provide such advance written notice shall not constitute grounds for granting a within-grade increase that would otherwise have been denied.
 - (c) Basis for denial:
 - (i) If the determination is based on conduct deficiencies, the written notice shall explain specifically in what way(s) the employee's conduct is deficient; if appropriate, how the employee may improve his or her conduct and what amount of time will be allowed to improve the conduct (this will be the period of time until the employee completes the required period of creditable service, which should be at least 60 calendar days when practicable); and if

appropriate, that failure to improve the conduct will result in denial of the within-grade increase.

(ii) If the determination is based on performance deficiencies—

- For Unacceptable performance, appropriate action as set forth in MD 10.67, “General Grade Performance Management System,” Section III of this handbook shall be followed.
- For Minimally Successful performance, a written notice shall be provided to the employee that explains specifically what way(s) the employee’s performance is deficient, how the employee may improve his or her performance, the amount of time allowed to improve performance (at least 60 calendar days, when practicable), and that failure to improve performance will result in denial of the within-grade increase at the end of the waiting period.

(iii) If the determination is based on combined conduct and performance deficiencies, the supervisor, in consultation with the servicing ELR Specialist, shall determine which deficiency carries more weight, and shall follow the instructions in the above which pertain to that deficiency. If both are of equal importance, the instructions in both paragraphs above shall be followed.

4. Once the employee completes the required period of creditable service, or as soon as practicable after, the supervisor in consultation with the servicing ELR Specialist will make a final determination as to whether or not the step increase is warranted. The supervisor will inform the employee in writing of this determination with the concurrence of the Chief, PLERB, OCHCO.

(a) If the supervisor determines that the within-grade increase is warranted, the increase shall be effective as described in Section III.H of this handbook.

(b) If the supervisor determines that the within-grade increase is not warranted, the written notice of this determination shall include—

(i) A statement that the within-grade increase is denied and the effective date;

(ii) The reasons for the denial;

(iii) A statement that the employee has a right to file a grievance concerning the denial under MD 10.101 “Employee Grievances”;

(iv) A statement that if the supervisor determines at a later date that the employee has demonstrated sustained performance at an acceptable level of competence and satisfactory conduct, a new rating of record shall be prepared and a within-grade increase granted at that time;

- (v) A statement that in any event, a new determination will be made not later than 52 calendar weeks following the original eligibility date for the within-grade increase;
- (vi) A statement that the form and the written material pertinent to the determination will be filed, along with the SF-50 documenting the denial in the OPF.

G. Further Consideration of a Denied Within-Grade Increase

1. In the case of an employee whose work has not been certified to warrant a step increase and the increase was denied, a new determination shall be made within 52 calendar weeks from what would otherwise have been the effective date of the step increase.
2. If it is determined that a step increase is warranted, a new certification is signed, a new rating of record shall be prepared, and the within-grade increase shall be effective as described in Section III.H of this handbook.
3. If it is determined that the step increase still is not warranted, the employee is entitled to the review and notification process described in Section III.F of this handbook. During this time, the supervisor should be working to remedy the situation that is preventing the employee from receiving the within-grade increase (i.e., for performance related issues: Performance Improvement Requirements Memorandum, or a reassignment, removal, or grade reduction).

H. Effective Date of Within-Grade Increase

1. With proper certification, step increases shall be made effective at the beginning of the first pay period following completion of the required waiting period of creditable service. If a waiting period is completed on the first day of a pay period, the within-grade increase is not made effective until the first day of the following pay period.
2. When an acceptable level of competence and satisfactory conduct determination is made to grant a within grade increase after a negative determination has been made as described in Section III.G.1 of this handbook, the effective date of the step increase is the first pay period after the acceptable determination has been made.

IV. GRADE AND PAY RETENTION

A. Coverage

1. Grade and pay retention applies to employees moving within a covered pay system (e.g., GG pay system positions). Pay retention also may apply to an employee who is moving to a position in a covered pay system from a position not under a covered pay system.

2. The NRC is not covered by 5 U.S.C. 5361-5366 or by the OPM rules and regulations pertaining to grade and pay retention in NRC positions. However, NRC generally parallels requirements and entitlements concerning grade and pay retention as set forth in 5 CFR Part 536 that may be used for further reference unless that guidance specifically conflicts with a stated NRC policy or procedure, in which case, the NRC policies and procedures prevail. The provisions of this part do not apply to an employee who is leaving the Resident Inspector Program and is eligible for saved pay in Section V of this handbook.

B. Grade Retention

1. An employee who is placed in a lower-graded position and is eligible for grade retention will retain the grade held immediately before the reduction for a period of 2 years. Grade retention will be applied consistent with normal, Governmentwide pay setting practices.
2. Mandatory grade retention must be provided to an employee who moves to a lower-graded position as a result of—
 - (a) RIF procedures (as described in MD 10.103, “Reduction in Force for Non-SES Employees”); or,
 - (b) A reclassification process (as described in MD 10.37, “Position Evaluation and Benchmarks”).
3. Optional grade retention may be provided to an employee when management announces a reorganization or reclassification decision in writing that may or would affect the employee; and the employee moves to a lower-graded position (either at the employee’s initiative or in response to a management offer) on or before the date the announced reorganization or reclassification is effected.
 - (a) An employee is eligible for optional grade retention only if, immediately before being placed in the lower grade, the employee has served for at least 52 consecutive weeks in one or more positions at one or more grades higher than the lower grade.
 - (b) Requests must be approved by the EDO and will be granted after a determination has been made that the situation will eliminate the likelihood of an adverse effect on another employee or will assist management in achieving its goals.
 - (i) Approvals may be granted on an individual, case-by-case basis, or may specify a group that is being affected.
 - (ii) If granted, the approval shall specify the time period during which such movements will begin grade retention eligibility.

- (iii) When an employee accepts a position with grade retention approved by the EDO, a statement that the action requested is voluntary and he or she understands the basic entitlements and restrictions of the grade retention provisions must be documented in writing, signed by the employee, and filed in the OPF.
4. Grade retention will be applied consistent with normal, Governmentwide pay setting practices except for former Resident Inspectors. In the case where an employee entitled to grade retention is moving from a Resident Inspector position to a non-Resident Inspector position, his or her rate shall be the rate of basic pay in the pay schedule now applicable (that is, applicable to the non-Resident Inspector position) for the grade and step held by the employee before the movement, even though in most cases this will result in a reduction in the employee's pay. This reduction in pay does not entitle the employee to pay retention as described in Section IV.C of this handbook.

C. Pay Retention

1. An employee whose rate of basic pay would otherwise be reduced (after applying any applicable geographic conversion) as a result of a management action may be eligible to retain his or her rate of basic pay.
2. Pay retention must be provided under certain situations, which include but are not limited to—
 - (a) The expiration of the 2-year period of grade retention as described in Section IV.B of this handbook;
 - (b) A RIF or reclassification action that places an employee in a lower-graded position when the employee does not meet the eligibility requirements for grade retention in Section IV.B of this handbook; or
 - (c) A management action that places an employee in a formal employee development program, such as upward mobility, apprenticeship, and career intern programs.
3. Pay retention may be provided to an employee who is not entitled to pay retention but whose payable rate of basic pay otherwise would be reduced as a result of a management action.
4. Pay retention will be applied consistent with normal, Governmentwide, pay setting practices, except for former resident inspectors:
 - (a) The resident inspector salary schedule is applicable only to those employees who are actually at resident inspector sites and whose position of record is resident inspector or senior resident inspector. In the rare case where an employee entitled to pay retention is moving from a resident inspector position to

a non-resident inspector position, his or her retained rate of pay shall be determined based on the rate of basic pay had the employee not been under the resident inspector salary schedule.

- (b) Former resident inspectors may be eligible for saved pay provisions. See Section V of this handbook for further details.

D. Termination of Grade and/or Pay Retention

Grade and/or pay retention will be terminated under one of the following circumstances:

1. A break in service of one workday or more.
2. An employee's demotion for personal cause.
3. At the employee's written request.
4. The employee's position changes to an "equivalent tenure" position, which is defined as having tenure equal to, or greater than, that of the position creating the grade or pay retention entitlement. For purposes of comparing rates of basic pay in this section of the handbook, resident inspector positions shall be considered to be paid on the same salary schedule as non-resident inspector positions in the same series and grade in the NRC.
 - (a) For grade retention, the job offer is at a grade equal to or higher than the employee's retained grade.
 - (b) For pay retention, the job offer is at a rate of basic pay equal to or greater than the retained rate.
 - (c) Temporary promotions or reassignments that result in a higher rate of pay than that being received by the employee under these provisions will not jeopardize retained grade or pay entitlements. Such entitlements will be held in abeyance during that temporary period.
5. The employee's declination of a reasonable "equivalent tenure" job offer in his or her present commuting area. All NRC office locations in the Washington, D.C. area are determined to be in the same commuting area.
 - (a) For grade retention, the job offer is at a grade equal to or higher than the employee's retained grade.
 - (b) For pay retention, the job offer is at a rate of basic pay equal to or greater than the retained rate; or
6. The employee moves to a position not under a covered pay system.

E. Appeals/Grievances

1. An employee who is granted grade or pay retention because of a position evaluation action may request formal review of the position evaluation under applicable provisions of MD 10.37, "Position Evaluation and Benchmarks" and such review is the only appeal right available to employees in position evaluation matters. An employee who is granted grade or pay retention because of a RIF action may appeal or grieve the RIF action as explained in MD 10.103, "Reduction in Force for Non-SES Employees."
2. An employee may file a grievance related to granting grade and/or pay retention based only on management's alleged failure to comply with applicable provisions of law, rule, regulation, and/or this section of this handbook.
3. An employee may file a grievance upon the termination of grade or pay retention benefits only if the termination is based on the employee's declination of a reasonable offer as explained in MD 10.103.

V. SAVED PAY

Saved pay is specific to the NRC and allows employees whose rate of basic pay would otherwise be reduced (after applying any applicable geographic conversion) to keep their basic pay in specific circumstances.

A. Former Resident Inspectors

Under certain conditions, resident inspectors and senior resident inspectors who are reassigned to a position outside of the resident inspector program are eligible for saved pay. If eligible, the employee's pay from the resident inspector salary schedule is retained as base pay and a locality adjustment is added until such time as the application of normal pay setting procedures meets or exceeds the employee's saved pay. While a former resident inspector is on saved pay, the pay plan will change from "GG" to "AD." This rate of pay is different than those employees who may have an AD rate of pay as described in Section I.C.3 of this handbook. Further details, including eligibility requirements can be found with the resident inspector salary schedule, which can be found at <http://drupal.nrc.gov/ochco/catalog/31650>.

B. Re-employment of NRC Career Employees from a Commissioner's Office

NRC career employees with re-employment rights who accept limited appointment Commissioner Assistant positions are eligible for saved pay upon return to the career staff, provided that they have served at least 1 year in that capacity. Pay will be set in accordance with the pay retention pay setting rules described in Section IV.C of this handbook. Further details related to Commissioner Assistant positions can be found in the Commissioner's Assistant Handbook, which can be found at <http://fusion.nrc.gov/ochco/team/PDF/Executive/comm-asst-handbook.pdf>.

VI. APPROVAL OF NEW PAY SCHEDULES AND ADJUSTMENTS TO NEW PAY RATES

A. Approval of New Pay Schedules

Pursuant to the decision of the NRC to establish a compensation system independent of the civil service system, the EDO and/or the CHCO, as outlined in the Organizational Responsibilities and Delegations of Authority, will approve revisions to the GG pay schedules and specify an approval date for the new schedules (see Section III of the directive). Unless otherwise directed in writing by the EDO, the effective date is the same as that established by law or Executive Order for the statutory General Schedule Salary for the General Grade Salary Schedule.

B. Adjustments to New Pay Rates

1. Pay adjustments will be made as of the effective date of the new pay schedule and will apply consistent with normal, Governmentwide, pay setting practices unless stated otherwise on an NRC Special Salary Schedule.
2. When pay related actions occur simultaneously, they shall be processed in the same order as outlined in Section II.F in this handbook.

VII. SEVERANCE PAY

- A.** Pursuant to 5 U.S.C. 5595, the NRC is covered by the regulations governing severance pay. Severance pay will be paid in accordance with 5 CFR Part 550, Subpart G. In general, severance pay is authorized for most non-temporary employees who have completed 12 months of continuous service when they are involuntarily separated from the NRC for reasons other than inefficiency (i.e., unacceptable performance or conduct) and meet other conditions of eligibility.
- B.** Severance pay consists of two parts: a basic severance allowance based on the length of the employee's creditable civilian service and an age adjustment allowance, if applicable, if the employee is over the age of 40 at the time of separation.
- C.** See 5 CFR Part 550, Subpart G, for further information regarding severance pay.

VIII. GLOSSARY

The definitions provided below relate to certain terms used in this MD. The meanings provided here are for the purposes of this MD only.

Acceptable Level of Competence

“Fully Successful” performance by an employee of the duties and responsibilities of his or her position that warrants advancement of the employee’s rate of basic pay to the next higher step of the grade of his or her position.

Administratively Determined (AD) position

A position with or without a numerical pay grade or level designation and with a pay rate in the GG-1 through GG-15 range.

Appointment

The action of effecting the employment of a person as an employee of the NRC.

Change to Lower Grade

The official change of an employee from one grade level to a lower grade level in the same pay system, with or without a reduction in pay.

Equivalent Increase

An increase in the employee’s rate of basic pay rate, or an opportunity for such an increase under a non-GS or GS pay system as described in Section III.C of this handbook.

General Grade (GG) Position

A position paid under the NRC General Grade Salary Schedule or a special salary rate.

Graded Position

A position with a numerical grade designation indicating the applicable pay rate or range of pay rates in a given schedule.

High Quality Increase (HQI)

A discretionary increase in an employee’s rate of basic pay from one step rate of the grade to the next higher step rate of the same grade. It immediately raises the employee’s rate of basic pay one step and may be used to recognize the sustained high quality performance of an employee.

Official Worksite

The official location of an employee’s position of record. Official worksite is synonymous with the term “official duty station” as used in 5 U.S.C. 5305(I).

Position Evaluation

The process of assigning the correct title, series, and grade based on an assessment of the primary or major functions of the work to be performed for a specific job and the requirements to do that work.

Premium Pay

The dollar value of “regular” compensatory time off (i.e., a paid absence in lieu of overtime pay) or additional pay for: overtime (including administratively uncontrollable overtime), night, Sunday, or holiday work or for standby duty or availability duty.

Promotion

The movement of an employee to a higher grade while continuously employed (including movement in conjunction with a transfer).

Rate

The monetary amount paid to an employee for performance of the duties and responsibilities of his or her position.

Administratively Determined (AD) Rate

A rate within the GG-1-15 rate range fixed outside of the applicable pay schedules for the grade as an exception to prescribed pay procedures.

Base Rate

The rate of basic pay within the GG schedule excluding any additional pay, such as locality rates or special rate supplements.

Highest Previous Rate

The highest rate of basic pay previously received by an individual while employed in a civilian position in any part of the Federal Government without regard to whether that position was under the GG pay system.

Locality Rate

A rate of pay incorporating a locality payment based on the employee’s official worksite.

Maximum Payable Rate

The maximum discretionary rate that may be used by the agency to set the employee’s pay above the rate that would be established using normal paysetting rules. The rate is based on an employee’s highest previous rate.

Rate of Basic Pay

The rate of pay fixed by law or administrative action for the position held by an employee before any deductions, including a GG rate, a Law Enforcement Officer special base rate, a locality rate, a special rate, or a retained rate, but excluding additional pay of any other kind.

Rate Range

A range of rates of basic pay for a grade within an established pay schedule, excluding any retained rate.

Retained Rate

A rate above the maximum rate of the rate range.

Special Rate

A higher rate of pay for specific categories of GG positions or employees at one or more grades.

Reassignment

The official change of an employee from one position to another position at the same grade in the same pay system, or to a position with the same representative rate under a different pay system.

Temporary Promotion

A time-limited promotion with a not-to-exceed date or a specified term.