

*U.S. NUCLEAR REGULATORY COMMISSION*

***DIRECTIVE TRANSMITTAL***

TN: DT-93-07

**To:** System Custodians

**Subject:** Transmittal of New Management Directive 10.153, "Administrative Judges—Compensation and Staffing"

**Purpose:** New Directive and Handbook 10.153 are being issued to establish the policies, practices, and operating procedures relating to the staffing and compensation of administrative judge positions within the NRC.

**Office of Origin:** Office of Personnel

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**Directive:** 10.153, "Administrative Judges—Compensation and Staffing"

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# ***Administrative Judges – Compensation and Staffing***

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***Directive  
10.153***

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## **Contents**

<b>Policy</b> .....	1
<b>Objectives</b> .....	1
<b>Organizational Responsibilities and Delegations of Authority</b> .....	1
The Chairman .....	1
The Commission .....	2
Chief Administrative Judge, ASLBP .....	2
The Executive Director for Operations (EDO) .....	2
The Director, Office of Personnel (OP) .....	3
The Office of the General Counsel (OGC) .....	3
<b>Applicability</b> .....	3
<b>Handbook</b> .....	3
<b>References</b> .....	3



# U. S. Nuclear Regulatory Commission

Volume: 10 Personnel Management  
Part: 6 Senior Executive Service, Senior Level  
Positions, and Judges

OP

## **Administrative Judges—Compensation and Staffing Directive 10.153 Policy (10.153-01)**

It is the policy of the U.S. Nuclear Regulatory Commission (NRC) to recruit and compensate administrative judges by applying merit staffing and compensation principles equitable with those applied to other employees in positions above the GG-15 grade level.

### **Objectives (10.153-02)**

- To recruit and retain the highest quality technical and legal administrative judges for the agency. (021)
- To compensate administrative judges in a manner that takes into consideration the compensation of members of the Senior Executive Service, the Senior Level System, and administrative law judges. (022)

### **Organizational Responsibilities and Delegations of Authority (10.153-03)**

#### **The Chairman (031)**

Initiates the appointment, subject to the approval of the Commission, of Atomic Safety and Licensing Board Panel (ASLBP) members.

**Volume 10, Part 6 – Senior Executive Service, Senior Level  
Positions, and Judges  
Administrative Judges – Compensation and Staffing  
Directive 10.153**

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**The Commission  
(032)**

- Approves the pay system and pay rates of full-time administrative judges. (a)
- Establishes the pay of part-time administrative judges based on recommendations of the Chief Administrative Judge and the Director, Office of Personnel (OP). (b)
- Approves the selection of candidates for appointment to the ASLBP. (c)
- Approves changes to appointment and compensation procedures affecting ASLBP administrative judges. (d)
- Approves the appointment of all members of the ASLBP. (e)
- Delegates the appointment of ASLBP staff to the Chief Administrative Judge. (f)

**Chief Administrative Judge, ASLBP  
(033)**

- Assesses judicial staffing needs by legal and technical discipline and informs the Commission of the need for new judges. (a)
- Upon Commission approval, appoints members and sets pay in accordance with established fiscal and pay-setting practices. (b)
- Chairs the review committee, which interviews and nominates candidates for openings on the ASLBP. (c)
- Establishes and maintains registries of candidates in relevant disciplines who are qualified for appointment to the ASLBP. (d)
- Consults with OP regarding the policies, practices, and regulations relative to establishing pay of a given administrative judge and makes recommendations to the Commission. (e)

**The Executive Director for Operations (EDO)  
(034)**

Informs the Commission of the implementation plans for any cost-of-living pay increases applicable to administrative judges employed by NRC. (a)

Recommends, as part of his or her budgetary and fiscal responsibilities, the maximum payable rate for the class of part-time administrative judges. (b)

**Volume 10, Part 6 – Senior Executive Service, Senior Level  
Positions, and Judges  
Administrative Judges – Compensation and Staffing  
Directive 10.153**

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**The Director, Office of Personnel (OP)**  
(035)

- Administers staffing and compensation activities for administrative judges. (a)
- Provides advice and guidance to the Chief Administrative Judge on pay-setting policies, practices, and regulations for ASLBP administrative judges, including setting pay of a given judge. (b)
- Provides regulatory review and provides recommendations for the Commission on requests to establish or adjust compensation for part-time judges. (c)

**The Office of the General Counsel (OGC)**  
(036)

Provides advice and makes determinations with respect to conflict-of-interest matters and financial holdings.

**Applicability**  
(10.153-04)

This directive and handbook apply to all full-time and part-time administrative judges with intermittent work schedules employed by NRC. This directive and handbook do not apply to NRC administrative law judges.

**Handbook**  
(10.153-05)

Detailed guidelines for the administration of staffing and compensation of administrative judges are contained in Handbook 10.153.

**References**  
(10.153-06)

1. The Atomic Energy Act of 1954, as amended (42 U.S.C. 2011, et seq.).
2. Energy Reorganization Act of 1974, as amended (42 U.S.C. 5801, et seq.).

**Volume 10, Part 6 – Senior Executive Service, Senior Level  
Positions, and Judges  
Administrative Judges – Compensation and Staffing  
Directive 10.153**

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## **References**

(10.153-06) (continued)

3. SECY-91-274, “Establishment of NRC Position and Pay System for NRC Administrative Judges and Staff at General Grade (GG) 16, 17, and 18 or Equivalent Pay Levels.”
4. SECY-92-252, “Procedures for Compensating Part-Time Judges, Members of the Advisory Committees, and Experts and Consultants.”
5. NRC Management Directive 10.41, “Pay Administration” (formerly MC 4130-C).
6. NRC Management Directive 14.1, “Official Temporary Duty Travel” (formerly MC 1501).

# ***Administrative Judges – Compensation and Staffing***

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***Handbook  
10.153***

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## **Contents**

### **Part I**

<b>Compensation</b> .....	1
Alignment With Other NRC Executive Systems (A) .....	1
Waiting Period for Full-Time Judges (B) .....	2
Pay-Setting at Initial Appointment (C) .....	2
Annual General Pay Adjustment (D) .....	2
Performance-Based Awards (E) .....	3
Bonuses and Allowances (F) .....	3
Benefits for Part-Time Judges With Intermittent Work Schedules (G) .....	3
Financial Obligations (H) .....	5

### **Part II**

<b>Recruitment and Staffing</b> .....	6
Recruitment (A) .....	6
Administrative Judge Review Committee (B) .....	6
Qualifications Requirements (C) .....	7
Submitting Registers for Commission Selection (D) .....	8
Implementing Commission Decisions (E) .....	8
Appointments (F) .....	8

## **Part I**

# **Compensation**

### **Alignment With Other NRC Executive Systems (A)**

The Commission approves the pay system and pay rates of full-time and part-time administrative judges. The pay schedule for full-time U.S. Nuclear Regulatory Commission (NRC) administrative judges is aligned with the Senior Executive Service (SES) pay schedule. (1)

Pay for nonsupervisory judges is divided into three levels: (2)

- Level A is a pay range that extends from ES-1 to ES-3 in the SES schedule. The higher entry-level pay for administrative judges, as compared to the pay of Senior Level System personnel, compensates for the ineligibility of administrative judges for performance-based pay incentives and awards. (a)
- Level B is a flat rate identical to the ES-3 rate in the SES schedule. (b)
- Level C is a flat rate identical to the ES-4 rate in the SES schedule. (c)

The Deputy Administrative Judge and the Chief Administrative Judge are in the SES and have pay rates of ES-5 and ES-6 respectively. (3)

The pay rate for part-time administrative judges cannot exceed that of Executive Level IV. Within the NRC, the Executive Director for Operations (EDO) recommends the maximum payable rate for the class of part-time administrative judges as part of the EDO's budgetary and fiscal responsibilities. The Commission may set the pay of a part-time administrative judge below the maximum pay rate, but is not required to do so. (4)

## **Waiting Period for Full-Time Judges (B)**

There is a 1-year waiting period before judges may move from Level A to Level B. (1)

There is a 2-year waiting period before judges may move from Level B to Level C. (2)

## **Pay-Setting at Initial Appointment (C)**

The Chief Administrative Judge, upon approval by the Commission, sets pay for new nonsupervisory full-time appointees in accordance with established fiscal and pay-setting practices. (1)

Pay-setting actions are reviewed by the Director, Office of Personnel (OP), for regulatory and procedural compliance before consultation with the Commission. (2)

NRC employees at the GG-15 pay level who are selected for full-time positions normally have pay set within the Level A pay range. This practice is consistent with pay-setting practices for GG-15-level employees who are selected for the SES. (3)

Appointees from outside the NRC who are selected for non-supervisory full-time positions normally have pay set at a level in accordance with current pay, but no lower than Level A or higher than Level C. (4)

## **Annual General Pay Adjustment (D)**

When their pay adjustment is approved by the EDO in consultation with the Chairman, full-time and part-time NRC administrative judges receive the same annual general pay adjustment as that provided to SES members. (1)

The pay scale described in Management Directive (MD) 10.41, "Pay Administration" (formerly MC 4130-C), is revised to reflect the new SES and administrative judge pay rates. MD 10.41 also reflects new rates for Executive Level IV. (2)

## **Annual General Pay Adjustment (D) (continued)**

Employees who are paid within the Level A pay range receive the same percentage increase as SES members, as noted in Section (D)(1). (3)

Annual adjustments for employees in the Level A pay range cannot exceed the top of that pay range. (4)

The Commission establishes the pay of part-time administrative judges with intermittent work schedules based on the recommendations of the Chief Administrative Judge and the Director, OP. The Chief Administrative Judge consults with OP regarding the policies, practices, and regulations relative to setting the pay of a given administrative judge. (5)

## **Performance-Based Awards (E)**

As a matter of NRC policy stated in SECY-91-274, NRC administrative judges are not eligible for performance-based awards or pay increases.

## **Bonuses and Allowances (F)**

As a matter of NRC policy stated in SECY-91-274, NRC administrative judges are not eligible for recruitment or relocation bonuses, retention allowances, or time-off incentive awards for superior performance.

## **Benefits for Part-Time Judges With Intermittent Work Schedules (G)**

Employees should be aware that the obligations, benefits, and privileges of all Government-wide benefit programs are provided by statute, and therefore are subject to change by legislation and by regulations of other Government agencies. All benefits determinations are made in accordance with applicable laws and regulations, and are dictated by the circumstances of each case. The following information is provided as a general guide to help answer the most common concerns in the benefits area.

Part-time judges are normally excluded from coverage under the Federal Employees Retirement System (FERS) because employment is temporary or intermittent. (1)

## **Benefits for Part-Time Judges With Intermittent Work Schedules (G) (continued)**

The only part-time judges who can earn leave are those who receive temporary appointments and have a regular tour of duty. Judges employed on an intermittent basis are excluded from Federal leave-earning categories. (2)

Part-time administrative judges are excluded from Federal health benefits and group life insurance programs. However, persons who previously had this coverage and who are employed by NRC without a break in service retain their coverage with the following exception: Life insurance coverage is not retained when an intermittent employee is not expected to return to his or her previous position. (3)

All part-time administrative judges are subject to withholding under the Federal Insurance Contributions Act (FICA) unless they are reemployed annuitants under the Civil Service Retirement System (CSRS) or were hired without a break in service after previous CSRS coverage. (4)

Reemployed annuitants who have intermittent schedules are not eligible for a supplemental or readjusted annuity. (5)

Part-time administrative judges who sustain injuries during the performance of assigned duties are entitled to compensation under the Employees Compensation Act. In case of injury resulting in death, the estate is entitled to compensation. (6)

Travel expenses are paid in accordance with policies and procedures specified in MD 14.1, "Official Temporary Duty Travel" (formerly MC 1501). (7)

To the extent authorized or approved, part-time administrative judges may be reimbursed for direct out-of-pocket expenses associated with their assignments. This category covers items such as postage, long distance calls, telegrams and typing, or reproduction services when use of Government facilities is not feasible. (8)

## **Financial Obligations (H)**

The Chief Administrative Judge is responsible for instituting appropriate systems and controls to account for expenditures and commitment of funds for both compensation and miscellaneous expenses of part-time administrative judges.

## **Part II**

# **Recruitment and Staffing**

### **Recruitment (A)**

Recruitment should be conducted with the assistance of the Director, OP, on an extensive, nationwide basis in order to obtain the broadest range of candidates. (1)

Applicants will be considered without regard to race, religion, age, color, national origin, sex, handicap, political affiliation, or any other nonmerit factor. (2)

The Chief Administrative Judge, or his or her designee, will advise OP of appropriate recruiting sources, including professional societies, trade and professional journals, and so forth. (3)

Positions should be identified as either full-time or part-time with intermittent work schedules. (4)

Announcements should indicate the skill specializations needed and whether the position(s) are full-time or part-time with intermittent work schedules. All other pertinent information regarding the position requirements should also be provided. (5)

### **Administrative Judge Review Committee (B)**

The review committee will be composed of the Chief Administrative Judge, the Deputy Chief Administrative Judge, and a representative of the OGC appointed by the General Counsel. (1)

The review committee will interview and evaluate candidates and present for Commission consideration at least two candidates for each appointment to the ASLBP. (2)

## **Administrative Judge Review Committee (B) (continued)**

The review committee will be used to screen candidates for both full-time and part-time positions. (3)

OP will provide any personnel and administrative support to the review committee. (4)

OGC will be consulted regarding financial holdings, conflicts of interest, and related determinations concerning candidates. (5)

Candidates found qualified will either be appointed directly or placed on a register in their discipline from which appointments will be made. (6)

## **Qualifications Requirements (C)**

A background in law, engineering, or scientific disciplines is required to conduct the work of the ASLBP. (1)

Candidates should have at least 7 to 10 years of work experience in related fields or fields that can be applied directly to the adjudicatory work of the ASLBP. (2)

A security clearance based on a full background investigation is required. (3)

Candidates are requested to submit a writing sample with an employment application (Standard Form [SF] 171) or résumé describing their educational and professional background, including any special accomplishments. (4)

Part-time candidates should indicate their ability to devote the time required to perform ASLBP work. (5)

To qualify for employment as a part-time administrative judge, an individual shall have demonstrated by his or her experience, training, or other evidence of mastery of his or her field, such as writings, inventions, or professional recognition, that the individual possesses the specialized knowledge and skills needed by the NRC for the position, or that the individual is otherwise eminently qualified for the specific assignment. Generally, a part-time administrative judge is a recognized authority in his or her field. (6)



## **Submitting Registers for Commission Selection (D)**

The review committee will forward appointment recommendations to the Commission. Registers of persons eligible for appointment to the ASLBP will be categorized by subject matter area. (1)

Registers may be used for up to a year before a new register must be established. (2)

Each subject matter register will be divided into full-time and part-time candidates. (3)

A short summary of the recruiting process, the sources, the number of applicants, and the number of qualified applicants will be provided to the Commission. (4)

The complete appointment recommendation package will indicate appropriate regulatory and legal conflict-of-interest reviews have been accomplished by OP and OGC. Any comments provided by these offices will be included in the complete appointment recommendation package. (5)

## **Implementing Commission Decisions (E)**

The Commission will advise the Chief Administrative Judge of all selection decisions. The Chief Administrative Judge will make appointments accordingly. (1)

The Chief Administrative Judge will contact OP to begin procedures necessary for appointment. (2)

Pay for both full-time and part-time administrative judges will be set in accordance with guidelines specified in Part I of this handbook. (3)

Any employment offer is contingent upon satisfactory completion of pre-employment processing and the granting of an NRC security clearance. (4)

## **Appointments (F)**

The authority of the NRC to appoint ASLBP members (judges) is contained in Section 191 of the Atomic Energy Act of 1954, as amended. (1)

**Appointments** (F) (continued)

Part-time judges will receive 1-year temporary appointments, renewable indefinitely with an intermittent work schedule. (2)

Work of part-time administrative judges may not total more than 130 days each year, but part-time administrative judges may be reappointed annually for a service year of 365 days. The service year of 365 days may or may not coincide with a fiscal or calendar year. An SF 50, "Notification of Personnel Action," will be used to document appointments. (3)

Full-time administrative judges will be assigned an appropriate technical or legal generic position description upon appointment. (4)