

## Chapter 9

### Special Salary Treatments

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Appendix N --- Pre-Authorized Appointments Above the Minimum  
(Civil Service Law §131.1a), January 2007

## **SPECIAL SALARY TREATMENTS**

Sections 130 and 131 of the Civil Service Law authorize the Director of the Division of Classification and Compensation to enhance State salaries in order to address recruitment and retention difficulties created by market circumstances. All such determinations are subject to the approval of the Director of the Division of the Budget. The most frequently used Special Salary Treatments are:

- Appointments Above the Minimum -- Section 131.1(a)
- Increased Hiring Salaries -- Section 130.4
- Shift Pay Differentials -- Section 130.6
- Geographic Pay Differentials -- Section 130.7

In-depth information about each of these provisions of the law, and several others, can be found in the *State Personnel Management Manual* as noted below.

Information in this manual will address the processing requirements and the resources that can be used when preparing requests pursuant to the four sections of the Civil Service Law cited above.

### **Impact on Employees**

Employees may receive all of the Special Salary Treatments and negotiated salary enhancements for which they qualify. It is not unusual, particularly for direct care titles in institutional settings, to be eligible for more than one Special Salary Treatment.

### **Duration**

The Division of Classification and Compensation periodically reviews the appropriateness of previously approved Special Salary Treatments. When justifiable, the Director retains the statutory authority to reduce, enhance or terminate (i.e., rescind) existing Special Salary Treatments.

## **Special Salary Treatment Resources**

The following resources are available on our website:

1. State Personnel Management Manual (SPMM): Section 0870 (A through G) provides in-depth information on all of the Special Salary Treatment provisions of the Civil Service Law.
2. OSC Salary Manual: published by the Bureau of State Payroll Services (formerly the Bureau of Payroll Audit) at the Office of the State Comptroller provides information on salary determination procedures, including the Special Salary Treatments.
3. NYSTEP/TPM User's Manual: Chapters 5 and 6 provide step-by-step instructions on how to submit requests for salary adjustments under Sections 130 and 131.1a of the Civil Service Law.
4. Salary Schedules: provide the dollar salary range associated with the grade of a title. Salary Schedules for the various bargaining units are periodically revised as a result of agreements reached during collective negotiations between the State and the certified employee organizations. In addition, a Salary Schedule is published periodically for positions designated as Managerial/Confidential.
5. Monthly Amendments to the Title and Salary Plan: list all changes that have taken place in the past month to the Title and Salary Plan including the titles, locations and effective dates for all Special Salary Treatments approved by the Division of the Budget. All electronic resources, such as the Title and Salary Plan and the Special Salary Treatment Search Engine, are updated as soon as approval from the Division of the Budget has been received.
6. Special Salary Treatment Search Engine: provides up-to-date information on all approved 130.4, 130.6, and 130.7 Special Salary Treatments. The Special Salary Treatment Search Engine is an advisory tool only and should not be used to convey an official salary offer to a candidate. For an official calculation, contact the Bureau of State Payroll Services at the Office of the State Comptroller.

*These resources are current as of the publication date of this manual. Additional tools and resources are under development and will be added to our website as they become available.*

## **Appointments Above the Minimum -- Section 131.1(a)**

Section 131.1(a) of the Civil Service Law empowers the Director of the Division of Classification and Compensation to authorize additional compensation, called an Appointment Above the Minimum (i.e., minimum is the statutory Hiring Rate of a salary grade), not to exceed the Job Rate of the salary grade of the title to which a person is to be appointed, when the training or experience of the appointee substantially exceeds requirements necessary for appointment. All such determinations are subject to the approval of the Director of the Division of the Budget.

The purpose of Section 131.1(a) is to allow for the recruitment and the appointment of highly qualified individuals with outstanding training and experience when there are no well-qualified individuals available for appointment at the minimum salary of a title.

### **Impact on Employee Salary**

When an Appointment Above the Minimum is authorized, it immediately becomes a permanent addition to an employee's salary; therefore, the reduction and/or rescission of a 131.1(a) increased minimum will not affect an employee who was the beneficiary of a previously approved Appointment Above the Minimum.

The general amount is one additional step in the salary schedule per year of experience in excess of the minimum qualifications.

### **Recruitment for New Employees**

Item D-400 of the *Budget Policy and Reporting Manual*, published by the Division of the Budget, states that this salary adjustment is only available for the appointment of candidates from outside State service. Further stated is that this Special Salary Treatment should be used "selectively" and not as a means for "upgrading" the workforce.

Appointments Above the Minimum will not be approved if there are other candidates among the three highest ranking acceptors who also have substantially greater qualifications than the required experience and training and are willing to accept appointment at the minimum salary. However, one can be authorized from the three highest ranking acceptors on an eligible list even though the other two acceptors will accept the appointment at the minimum, providing the other two candidates do not possess qualifications which are substantially in excess of the minimum qualifications.

State agencies have the flexibility to choose whether or not to offer a previously approved 131.1(a) increased minimum hiring rate to new employees.

Additionally, if an agency decides to offer a previously approved Appointment Above the Minimum, they can decide if they want to offer all or only a portion of the previously approved 131.1(a) increased minimum hiring rate.

Appointments Above the Minimum are normally restricted to an original permanent appointment to State service and generally will not be approved for provisional employees who are being permanently appointed. Exceptions may be allowed under unique circumstances presented by an agency (i.e., when an existing employee acquires a credential to otherwise qualify for an Appointment Above the Minimum), as noted below.

### **Internal Equity: Impact on Current Agency Employees**

The salaries of State employees serving in the same title and in the same geographic area or location and having qualifications equivalent to or greater than the newly appointed employee must also be raised to the authorized increased salary. It is the responsibility of State agencies, not the Division of Classification and Compensation, to monitor approved “Appointments Above the Minimum” and submit requests to the Director of the Division of Classification and Compensation to move employees with Equivalent Qualifications (EQ) to the new minimum salary.

### **Applications**

Applications should be submitted electronically in accordance with NYSTEP procedures as detailed in Chapter 5 of the *NYSTEP/TPM User Manual*. To avoid any delays in the review and processing of NYSTEP transactions, State agencies must select the appropriate type of Section 131.1(a) transaction on the NYSTEP panel – an **IM**, Increased Minimum for new employees, or an **EQ**, Equivalent Qualification for existing employees in the same title, same geographic area or location, and having qualifications equivalent to or greater than the newly appointed employee.

### **Pre-Approved Titles**

The Division of Classification and Compensation has pre-approved increased minimum hiring rates under Section 131.1(a) for selected titles in specific locations in New York State (see Appendix N). Agency submissions appear as “DOB Approved” as soon as they are entered into NYSTEP. Accordingly, agencies must accurately calculate the increased hiring rate in order to avoid under or overpayments. These transactions will be audited by the Division of Classification and Compensation on a post-determination basis (Post-Audit); however, some transactions will be randomly selected for pre-determination audit (Pre-Audit) in NYSTEP.

To request that a new employee be appointed pursuant to the provisions of these pre-approved actions (IM), or to request that an existing employee who has attained the advanced qualifications be granted the salary enhancement (EQ), an appropriate NYSTEP transaction must be submitted. Documentation for these requests requires an attestation from the appointing authority in the "Comments" panel of the NYSTEP transaction that states how the appointee exceeds the minimum qualifications consistent with the authorized increased hiring rate.

For example, Nurse 2 is a title that has a pre-authorized 131.1(a) Appointment Above the Minimum for all positions, statewide. The amount of the increase depends upon the number of years of post-licensure experience and/or the possession of a Bachelor's Degree in Nursing or a Master's Degree in Nursing (for details see Appendix N). What follows is an example of "Comments" from a NYSTEP request to appoint a new employee as a Nurse 2 under the IM provision of 131.1(a):

We request an IM for Ms. Smith based on the fact that she has 2 years of clinical experience beyond what is required in the minimum qualifications for this hard-to-fill title.

Subsequently the same Personnel Office submitted a request for an EQ for an existing Nurse 2 employee with the following "Comments" on the NYSTEP transaction (note, the specific IM transaction that provides the basis for the EQ request must be included in the "Comments"):

This EQ request for Ms. Jones is submitted in follow-up to the appointment of Ms. Smith as a Nurse 2 with an IM effective date of 7/20/06 (JC#0607-#####). Ms. Jones has more than 4 years of experience beyond the minimum qualifications for this title, which is more experience than that of Ms. Smith. Approval of this request will provide Ms. Jones with a salary equivalent to that of this other Nurse 2 who was hired after her and who has less clinical experience.

### **Other Titles**

Requests for an increased minimum salary under the provisions of Section 131.1(a) to titles that have not been pre-approved require more extensive documentation. Such requests should include the following detailed information:

- 1) The requested salary rate and the eligible list, if any, from which appointment would be made.
- 2) The established minimum qualifications for the title.

- 3) Evidence (such as a résumé or employment application) that the candidate possesses qualifications which substantially exceed the minimum qualifications for the position.
- 4) Evidence that there are no other similarly qualified candidates who would accept appointment at the minimum salary rate and reasons why the candidate will not accept appointment at the minimum salary.
- 5) An explanation of why the candidate's appointment at a higher rate is in the interest of State service.
- 6) Identification of those employees in the title under consideration in the same geographic area or location who would be entitled to an equivalent (EQ) salary rate.

What follows are sample letters that were submitted by a Personnel Office to request an "IM" and an "EQ" for a title that did not have a pre-approved 131.1(a) increased hiring rate.

**Sample "IM" Letter**

We request approval of an increased hiring rate, pursuant to Section 131.1(a) of the Civil Service Law, for the appointment of Jane Doe, SSN ###-##-####, to item #----, Child Support Specialist 1, Grade 18, in Albany. We are requesting appointment at the job rate of \$53,547.

The minimum qualifications for this competitive class title are five years of professional experience monitoring, administering, or supervising a child support enforcement program under Title IV-D of the Federal Social Security Act. A bachelor's degree may substitute for four years of the qualifying experience; or undergraduate college credit hours earned as a matriculated student may substitute for up to four years of qualifying experience (30 credits would equal one year); or a master's degree or 30 graduate credits hours as a matriculated student may substitute for an additional six months of the qualifying experience.

The incumbent of this position will be responsible for providing technical assistance and program support to improve local district program performance consistent with federal mandates. The incumbent will also be responsible for reviewing, researching, and preparing responses to the high volume of correspondence and inquiries from clients, respondents and other interested parties. The incumbent must have a familiarity with Child Support laws, regulations and processes which can only come from a New York State local Child Support Unit.

Ms. Doe has over 15 years of experience with the XYZ County Department of Social Services. From 1989 to 1995, she was a Confidential Support Investigator in XYZ

County where she was responsible for the investigation, enforcement and collection of child support on approximately 1500 cases. From December, 1995 to the present time, Ms. Doe has served as a Child Support Unit Supervisor in the XYZ County. As such, she has been responsible for establishing procedures based on federal, State and local laws to investigate absent parents, establishing paternity, support and enforcement of all court orders within the assigned jurisdiction. She is also responsible for supervision of 53 staff. She has reorganized her department staff, resulting in increases in paternity and support establishment and in collections.

Ms. Doe’s present salary with the XYZ County is \$52,762. She has indicated that she cannot accept an appointment with our agency at a significantly reduced salary of \$43,023, which is the hiring rate for a Grade 18 Child Support Specialist 1. We believe that appointment above the hiring rate is appropriate and in the best interests of our agency and New York State, given the extent to which Ms. Doe substantially exceeds the minimum qualifications for the position, as well as the extensive child support enforcement experience that she will bring to the agency’s Division of Child Support Enforcement.

Ms. Doe is one of four reachable acceptors on the open competitive Child Support Specialist 1 eligible list #ZZ-ZZZ. The Child Support Specialist 1 title exists only in our agency. Ms. Doe’s extensive experience in the field of child support enforcement far exceeds that of the other three list acceptors and presents our agency with the unique opportunity to appoint an individual who can make an invaluable contribution to the continued success of our Division of Child Support Enforcement. I am faxing you the resumes of Ms. Doe, as well as the resumes of the other three eligible list acceptors (Jeffrey Jefferson, Molly Madison and Laurie Lincoln), in support of our request.

We have reviewed the salaries of current Child Support Specialist 1 staff in Albany, and have determined that there are three current staff having qualifications equivalent to, or greater than, Ms. Doe’s. Upon approval of the request for Ms. Doe, we will submit requests to raise the salaries of the following employees pursuant to the “EQ” provisions of Section 131.1(a) of the Civil Service Law: Sarah Smith, SSN ###-##-####; Daniel Jones, SSN ###-##-####; and Laurie Richards, SSN ###-##-####.

**Sample “EQ” Letter**

(Note, the specific IM transaction that provides the basis for the EQ must be included in the request.)

This is to request an equivalent qualifications (EQ) salary adjustment, pursuant to Section 131.1(a) of the Civil Service Law, for three Child Support Specialist 1, Grade 18, employees in the Division of Child Support Enforcement in Albany, as noted below:

- Sarah Smith (SSN###-##-####)
- Daniel Jones (SSN###-##-####)
- Laurie Richards (SSN###-##-####)

An Increased Minimum (IM) under Section 131.1(a) of the Civil Service Law was recently approved to appoint Jane Doe to the position of Child Support Specialist 1 in Albany at a salary of \$53,547 (Job Control #0506-####). In accordance with Section 131.1(a), this request is to raise the salaries of the Child Support Specialist 1 staff that have been identified as having qualifications that are equivalent to or greater than Ms. Doe's qualifications. Resumes for Ms. Smith, Mr. Jones and Ms. Richards are enclosed.

## **Increased Hiring Salary -- Section 130.4**

Section 130.4 of the Civil Service Law authorizes the Director of the Division of Classification and Compensation to increase the minimum hiring salary of a class of positions, called an Increased Hiring Salary, whenever it is determined that it is impracticable to recruit for positions in that class at the Hiring Rate of the salary grade in one or all areas or locations of the State. All such determinations are subject to the approval of the Director of the Division of the Budget.

The purpose of Increased Hiring Salaries is to assist State agencies in the recruitment of qualified individuals to vacant positions in a particular area of the State, which can be defined as a region, county, facility or wherever the hiring problem exists.

### **Impact on Employees**

Increased Hiring Salary determinations made with respect to one or more areas or locations require that all employees of such titles in the authorized areas or locations who are receiving less than the newly approved minimum salary, have their salaries brought up to the new minimum salary for the area or location.

An employee does not retain the benefit of a 130.4 Increased Hiring Salary when that employee transfers to a different title or the same title in another location where the increased salary has not been approved.

Sections 130.4(b), (c), (d), and (e) of the Civil Service Law detail specific salary treatment for employees who are appointed, transferred, reinstated, or demoted to a different title and/or salary grade. Contact the Bureau of State Payroll Services at the Office of the State Comptroller regarding salary implications.

### **Pre-approved Titles and Locations**

The Division of Classification and Compensation has developed a Special Salary Treatment Search Engine that includes a live database of approved 130.4, 130.6 and 130.7 Special Salary Treatments. It should be used as an advisory tool when estimating employee salaries; the Bureau of State Payroll Services at the Office of the State Comptroller should be contacted for official salary estimates.

If a title in a specific area or location has been pre-approved for a 130.4 Increased Hiring Salary that amount will accrue to new appointees without any further action required by the Division of Classification and Compensation.

## **Applications**

If an appointing authority determines that it is having consistent difficulty filling positions in certain titles and/or locations due to highly competitive private sector compensation practices, a request should be submitted electronically in accordance with NYSTEP procedures detailed in Chapter 6 of the *NYSTEP/TPM User Manual*.

All requests should include detailed information and documentation regarding the:

- Recruitment difficulty for the class;
- Recruitment difficulty in the geographic area;
- Documentation of recruitment efforts made by the agency;
- Eligible list information (i.e., age of list, eligible candidates in the area);
- Vacancy and turnover data regarding the class; and
- Salaries offered for similar positions by other employers in the same location and geographic area.

## **Shift Pay Differentials -- Section 130.6**

Section 130.6 of the Civil Service Law provides that the Director of the Division of Classification and Compensation may authorize payment of additional compensation, called a Shift Pay Differential, to employees regularly assigned to work on a shift other than a normal day shift, in specific titles or occupations under certain specified conditions. All such determinations are subject to the approval of the Director of the Division of the Budget.

The purpose of Shift Pay Differentials is to help the State attract and retain competent personnel to work other than normal day shifts in particular occupations and areas of the State.

Shift Pay Differentials may be approved for a particular occupation when it is determined that other employers authorize a higher rate of pay or wage differential for similar shifts. Shift Pay Differentials are either percentage or fixed dollar amounts that can be authorized in an area or location. Shift Pay Differentials may only be authorized for tours of duty which include four or more hours between 6 p.m. and 6 a.m.

Item D-420 of the *Budget Policy and Reporting Manual* published by the Division of the Budget, states that Shift Pay Differentials are not substitutes for a general salary increase or inconvenience pay and should not be authorized simply because hours of employment differ from those of a normal day shift.

### **Impact on Employees**

Shift Pay Differentials can be authorized for employees who are "regularly assigned" to "a work shift other than a normal day shift." As defined in Item D-420 of the *Budget Policy and Reporting Manual*, "regularly assigned" means that an employee is "scheduled to work a shift other than a normal day shift on a basis other than a temporary basis." An employee should be considered "regularly assigned" to a night or evening shift if the employee works no less than ten (10) working days in a two-week period on such a shift.

An employee regularly assigned to the day shift whose schedule is changed to a night shift for one or two days is not eligible for the shift differential because the assignment is temporary.

An employee whose normal work schedule consists of both day and evening or night shifts is eligible for a Shift Pay Differential on a pro-rated basis.

A Shift Pay Differential is not considered part of an employee's base annual salary.

An employee does not retain the benefit of a Shift Pay Differential when that employee ceases to be employed in the work shift or position in the area or location for which the Shift Pay Differential was authorized.

### **Inconvenience Pay**

Shift Pay Differentials for specific titles should not be confused with Inconvenience Pay, which is negotiated pay in addition to the base annual salary of an employee (other than part-time or seasonal employees) who regularly works four or more hours between the hours of 6 p.m. and 6 a.m. exclusive of any hours for which overtime compensation is paid. Managerial/Confidential (M/C) employees are also eligible for this pay.

Inconvenience Pay is paid to eligible employees in addition to Shift Pay Differentials.

### **Pre-approved Titles and Locations**

The Division of Classification and Compensation has developed a Special Salary Treatment Search Engine that includes a live database of approved 130.4, 130.6 and 130.7 Special Salary Treatments. It should be used as an advisory tool when estimating employee salaries; the Bureau of State Payroll Services at the Office of the State Comptroller should be contacted for official salary estimates.

If a title in a specific area or location has been pre-approved for a 130.6 Shift Pay Differential that amount will accrue to new appointees without any further action required by the Division of Classification and Compensation.

### **Applications**

Section 130.6 authorizes applications for Shift Pay Differentials from appointing officers. Agency applications should be submitted electronically in accordance with NYSTEP procedures detailed in Chapter 6 of the *NYSTEP/TPM User Manual*.

All requests should include detailed information and documentation regarding the:

- Common practice among non-state employers, in the comparable geographic location, to pay shift differentials for the particular occupation and shift under consideration;
- Pay provided by non-state employers (combination of base pay and shift differential) that results in total compensation which substantially exceeds the State's base pay scales;

- Evidence that the agency is experiencing difficulty in recruiting qualified employees for the particular class of work or that it has been losing employees to other employers for the same class of work on shifts other than the day shift; and
- How the duties and responsibilities of employees in the particular occupation on the subject shift are not materially less than the duties and responsibilities of employees in the same occupation who work on the day shift.

## **Geographic Pay Differentials -- Section 130.7**

Section 130.7 of the Civil Service Law provides that the Director of the Division of Classification and Compensation may authorize payment of additional compensation, called a Geographic Pay Differential, to State employees in one or more areas of the State when private or other non-State employers in such areas pay substantially higher wage rates for a similar occupation. All such determinations are subject to the approval of the Director of the Division of the Budget.

The purpose of Geographic Pay Differentials is to assist State agencies with the recruitment and retention of competent personnel in particular occupations and areas of the State. Geographic Pay Differentials are either percentage or fixed dollar amounts that can be authorized in an area or location.

### **Impact on Employees**

A Geographic Pay Differential is not considered part of an employee's base annual salary.

An employee does not retain the benefit of a Geographic Pay Differential when that individual ceases to be employed in the position, area or location for which the differential was authorized. Contact the Bureau of State Payroll Services at the Office of the State Comptroller regarding salary implications.

### **Downstate Adjustment, Location Pay, and Mid-Hudson Adjustment**

Geographic Pay Differentials for specific titles in specific areas should not be confused with the State's negotiated Downstate Adjustment, Location Pay, or Mid-Hudson Adjustment.

The Downstate Adjustment is provided to all employees who work in the five counties of New York City and the counties of Nassau, Suffolk, Rockland, and Westchester.

Location Pay is provided to employees whose principal place of employment or whose official station is located in Monroe County, who were receiving such compensation on March 31, 1985 for those represented by the Civil Service Employees Association (CSEA) and on March 31, 1988 for those represented by the Public Employees Federation (PEF).

There is also the Mid-Hudson Adjustment which is provided to employees who work in Dutchess, Putnam and Orange Counties which became effective on April 1, 2004.

### **Pre-approved Titles and Locations**

The Division of Classification and Compensation has developed a Special Salary Treatment Search Engine that includes a live database of approved 130.4, 130.6 and 130.7 Special Salary Treatments. It should be used as an advisory tool when estimating employee salaries; the Bureau of State Payroll Services at the Office of the State Comptroller should be contacted for official salary estimates.

If a title in a specific area or location has been pre-approved for a 130.7 Geographic Pay Differential that amount will accrue to new appointees without any further action required by the Division of Classification and Compensation.

### **Applications**

Section 130.7 authorizes applications for Geographic Pay Differentials from appointing officers. Agency applications should be submitted electronically in accordance with NYSTEP procedures detailed in Chapter 6 of the *NYSTEP/TPM User Manual*.

All requests should include detailed information and documentation regarding the:

- Recruitment difficulty for the class;
- Recruitment difficulty in a geographic area;
- Documentation of recruitment efforts made by the agency;
- Eligible list information (i.e., age of list, eligible candidates in the area);
- Vacancy and turnover data regarding the class; and
- Salaries offered for similar positions by other employers in the same geographic area.