This is an amendment to 1.7.4 NMAC, Sections 12, 13, 14, 16, and 18, effective x/x/2026.

1.7.4.12 ADMINISTRATION OF THE SALARY SCHEDULES:

A. Entrance salary: Upon entrance to a classified position, a newly hired employee's salary, subject to budget availability, should reflect appropriate placement within the pay band. Any entrance salary at or above one hundred and fifteen percent compa-ratio must receive approval from the SPO director prior to hire.

B. Legislative authorized salary increase:

(1) Subject to specific statutory authorization for each state fiscal year, employees may be eligible for a salary increase within their assigned pay band.

(2) Employees with a salary at or above the maximum of the position's pay band shall not be eligible for an increase unless authorized by statute.

C. Salary upon in pay band adjustment: Agencies may increase an employee's base salary within the assigned pay band, subject to SPO director approval, budget availability and reflective of appropriate placement. In pay band adjustments may not result in the employee's base salary exceeding the maximum of the assigned pay band. When reviewing requests for in pay band adjustments the SPO director will take into consideration those instances where the requesting agency has employees with a current rate of pay that falls below the minimum of their pay band. In pay band adjustments for demonstrated performance, or skill and competency development shall be capped at ten percent per fiscal year.

D. Salary upon promotion: Upon promotion, an employee's salary subject to budget availability should reflect appropriate placement within the pay band. A salary increase of less than five percent shall require approval of the SPO director. A salary increase greater than ten percent per pay band increase shall require approval of the SPO director. A salary increase greater than ten percent to bring an employee's salary to the minimum of the pay band or less than five percent to prevent an employee's salary from exceeding the maximum of the pay band does not require the approval of the SPO director. The salary of a promoted employee shall be in accordance with Subsection B of 1.7.4.11 NMAC.

E. Salary upon demotion: Upon demotion, an employee's salary shall be decreased by no more than fifteen percent, unless a greater decrease is required to bring the salary to the maximum of the new pay band.

F. Salary upon transfer:

(1) Upon transfer an employee's salary, subject to budget availability and reflective of appropriate placement, may be increased or decreased by up to ten percent. The SPO director may approve a salary increase greater than ten percent due to special circumstances that are justified in writing.

(2) Employees shall be compensated, in accordance with agency policy, for all accumulated leave, other than sick, annual, or personal leave, prior to inter-agency transfer.

G. Salary upon pay band change: When a change of pay band is authorized in accordance with the provisions of 1.7.4.9 NMAC, 1.7.4.10 NMAC, or 1.7.4.11 NMAC the salaries of affected employees shall be determined in accordance with Subsection C of 1.7.4.11 NMAC. Employees whose pay band is adjusted upward or downward shall retain their current salary in the new pay band. Employees' salaries may be addressed through in pay band adjustment unless otherwise allowed by statute.

H. Salary upon reduction: The salary of employees who take a reduction may be reduced by up to fifteen percent. An employee's salary should reflect appropriate placement within the pay band. The SPO director may approve a salary reduction greater than fifteen percent due to special circumstances that are justified in writing.

I. Salary upon return to work or reemployment: The salary of former employees who are returned to work or re-employed in accordance with the provisions of 1.7.10.10 NMAC, 1.7.10.11 NMAC, 1.7.10.12 NMAC, or 1.7.10.14 NMAC shall not exceed the hourly rate of their base salary at the time of separation, unless a higher salary is necessary to bring the employee to the minimum of the pay band.

J. Salary upon temporary promotion: Pay for a temporary promotion under Subsection [~~F~~] E of [~~1.7.5.12~~] 1.7.5.13 NMAC, will be administered in accordance with Subsection D of 1.7.4.12 NMAC, except that payment of a temporary promotion increase shall be separate from the employee's base salary. The agency shall discontinue the temporary promotion increase when the temporary conditions cease to exist or at the end of the 12-month period, whichever occurs first.

K. Temporary salary increase: An agency may, with the approval of the SPO director, grant a temporary salary increase of an employee's base pay for a period not to exceed 1 year, from the effective date of the salary increase, for temporarily accepting and consistently performing additional duties which are characteristic of a job requiring greater responsibility/accountability or a higher valued job. The SPO director may approve temporary salary increases above the maximum of the employee's current pay band. Payment of a temporary salary increase shall be separate from the employee's base salary. The agency shall discontinue the temporary salary increase when the temporary conditions cease to exist or at the end of the 12-month period, whichever occurs first.

L. Salary adjustment to minimum: An employee whose salary falls below the minimum of the pay band will be adjusted in accordance with Paragraph (2) of Subsection C of 1.7.4.11 NMAC.
[1.7.4.12 NMAC - Rp, 1.7.4.12 NMAC, 8/1/2021; A, 7/29/2025; A, 2/24/2026; A, x/x/2026]

1.7.4.13 PAY DIFFERENTIALS:

A. Temporary recruitment differential: The SPO director may authorize, in writing, a pay differential of up to fifteen percent of an employee's base pay to an employee who fills a position which has been documented as critical to the effective operation of the agency and has been demonstrated and documented to be a severe recruitment problem for the agency.

(1) A temporary recruitment differential authorized under this provision shall be tied to the position and may not transfer with the employee should the employee leave that position. Payment of this differential shall be separate from the employee's base salary. Agencies shall demonstrate to the office, at least biennially, the circumstances which justified the differential to determine the necessity for its continuance.

(2) A temporary recruitment differential of more than fifteen percent of an employee's base pay or that results in an employee's pay exceeding the maximum of the pay band may be authorized by the SPO director.

B. Temporary retention differential: The SPO director may authorize, in writing, a pay differential of up to fifteen percent of an employee's base pay to an employee in a position which the agency has documented and has been designated as critical to the effective operation of the agency and the employee's departure would disrupt the agency's ability to fulfill its mission.

(1) A temporary retention differential authorized under this provision may be approved up to one year. The agency shall demonstrate to the office, at least annually, the circumstances which justify the continuance of the differential. The agency must provide a detailed plan that outlines how they intend to resolve the problems associated with the retention difficulties. Payment of this differential shall be separate from the employee's base salary and may not transfer with the employee should the employee leave that position.

(2) A temporary retention differential of more than fifteen percent of an employee's base pay or that results in an employee's pay exceeding the maximum of the pay band may be authorized if approved by the SPO director.

C. The temporary recruitment differential and the temporary retention differential are separate and distinct pay differentials that are administered separately.

D. **Pay for dusk to dawn work:** Employees shall be paid, in addition to their hourly pay rate, no less than $0.60 per hour for each hour of regularly scheduled work between 6:00 p.m. and 7:00 a.m.

(1) Agencies shall notify the SPO director of any change to the dusk to dawn differential or hours of eligibility.

(2) Agencies may choose not to pay the dusk to dawn differential to an employee whose alternative work schedule request results in the employee working any hours between 6:00 p.m. and 7:00 a.m.

E. Multi-lingual Pay: An agency may authorize a pay differential of $0.35 per hour to an employee who has been assigned to perform multi-lingual duties in a facility, office or worksite where it is deemed necessary to facilitate multi-lingual communications with members of the public.

F. Differential for temporary licensure or certification: The SPO director may authorize a pay differential of $1.00 to $5.00 per hour for an employee who has obtained a licensure or certification that the agency has documented is relevant and enhances the employees' position. The differential shall be removed when the licensure or certification expires. The following conditions must be met:

(1) The licensure or certification is not required by the classification; and

(2) The licensure or certification is subject to renewal.

[1.7.4.13 NMAC - Rp, 1.7.4.13 NMAC, 8/1/2021; A, 7/29/2025; A, 2/24/2026; A, x/x/2026]

1.7.4.14 OVERTIME:

A. Agencies are responsible for the evaluation of each employee's position and duties in order to determine their overtime status as set forth under the Fair Labor Standards Act.

B. Agencies shall provide documentation to employees as to the determination of their overtime status.

C. Employees have the right to appeal the determination of their overtime status according to the provisions of 1.7.6.13 NMAC. Agencies shall notify employees in writing of their appeal decision within 30 calendar days. [~~The employee may file an appeal of the agency's decision to the SPO director within 30 calendar days of the agency's decision. Agencies shall notify employees that their appeal to the SPO director must be in writing and must include the reason(s) why the employee believes he or she is improperly identified for overtime coverage. The appeal must include documentation describing the work currently being performed by the employee and any other relevant information. All information contained in the appeal shall be verified by the employing agency~~].

D. Agencies shall maintain a record on each employee containing information required by the provisions of the Fair Labor Standards Act.

E. Workweek is a period of time which begins at 12:01 a.m. Saturday, and ends at 12:00 midnight, the following Friday. The SPO director may approve an alternative work week.

F. Time worked in excess of 40 hours during the designated workweek shall be compensated in accordance with the provision of the Fair Labor Standards Act [29 U.S.C. Sections 201 to 262] for Fair Labor Standards Act covered, non-exempt employees.

G. Agencies shall not change the workweek to avoid payment of overtime. A change to the scheduled work hours within the workweek shall not be considered a change to the workweek.

H. Agencies shall determine the need for employees to work overtime, and be responsible for authorizing overtime work.

I. Paid holiday leave in accordance with the provisions of Subsection A of 1.7.4.17 NMAC, annual leave taken in accordance with the provisions of Subsection F of 1.7.7.8 NMAC, and administrative leave for voting taken in accordance with the provisions of Subsection C of 1.7.7.14 NMAC shall also count as time worked in the consideration of overtime for Fair Labor Standards Act covered, non-exempt employees.

J. Agencies shall pay Fair Labor Standards Act covered, non-exempt employees for overtime worked unless the employee, in advance, agrees in writing to compensatory time off. Employees may accrue a maximum of 240 hours of compensatory time, unless otherwise authorized by statute and shall be paid for accrued compensatory time upon separation.

K. Employees not covered or exempt from the overtime provisions of the Fair Labor Standards Act may be compensated for overtime if an agency's policy permits.

L. Any additional regular hours worked shall not be substituted for approved paid leave time during the same week additional regular hours were worked.

[1.7.4.14 NMAC - Rp, 1.7.4.14 NMAC, 8/1/2021; A, 7/29/2025; A, x/x/2026]

1.7.4.16 ON-CALL PAY:

[~~**A.**~~] In accordance with the provisions of the Fair Labor Standards Act, agencies shall develop a policy to compensate employees directed to remain on-call after their normal or alternative work schedule.

[~~**B.** Agencies shall file their on-call compensation policy with the office. Subsequent revisions to the on-call policy shall be filed with the office prior to implementation.~~]

[1.7.4.16 NMAC - Rp, 1.7.4.16 NMAC, 8/1/2021; A, x/x/2026]

1.7.4.18 GOVERNMENT COST SAVINGS INCENTIVE AWARDS: Agencies may provide cash awards to employees with the approval of the board in accordance with the provisions of Section 10-7-12 NMSA 1978. The <u>SPO</u> director [~~and the secretary of the department of finance and administration~~] shall [~~jointly~~] issue and administer guidelines for submitting proposed awards to the board.

[1.7.4.18 NMAC - Rp, 1.7.4.18 NMAC, 8/1/2021; A, x/x/2026]