



Defense Health Agency

ADMINISTRATIVE INSTRUCTION

NUMBER 1340.01

July 1, 2022

Director, J-1

SUBJECT: Pay Setting Policy

References: See Enclosure 1

1. PURPOSE. In accordance with references (a) through (e), this Defense Health Agency Administrative Instruction (DHA-AI) establishes Defense Health Agency (DHA) civilian personnel policies and procedures for pay setting determinations in instances where law, regulation, or other policy permits discretion.

2. APPLICABILITY

a. This DHA-AI applies to all federal civilian DHA personnel, including the DHA Markets, DHA Small Market and Stand-Alone Military Medical Treatment Facility Organization (SSO), Defense Health Agency Regions (DHAR), Military Medical Treatment Facilities (MTF), and dental treatment facilities (DTF).

b. This DHA-AI does not apply to individuals occupying the following positions:

- (1) Serving in an internship or residency training program.
- (2) Employed on less than a quarter-time or on an intermittent basis.
- (3) Reemployed annuitants.
- (4) In the Senior Executive Service.
- (5) Senior level, scientific, or professional positions paid pursuant to Section 5376 of Reference (c) or highly qualified experts paid pursuant to Section 9903 of Reference (c).
- (6) Foreign nationals paid consistent with local nation pay schedules.

c. The overarching policy governing pay setting for Physicians and Dentists is

Reference (f), Volume 543. Further guidance can be found in the DoD Activity Compensation Panel User Guide and DoD Physicians and Dentists Pay Plan Implementation Plan.

d. When any provision conflicts with an agreement negotiated under the Federal Service Labor-Management Relations Statute, the negotiated agreement is controlling.

3. POLICY IMPLEMENTATION. In accordance with the principles and intent of the listed References, it is DHA policy that:

a. Non-discretionary aspects of setting civilian pay will be carried out in accordance with existing law, rules and regulations.

b. Where administrative discretion is permitted, pay setting decisions will be made to afford the greatest benefit to the employee. For instance, when an initial pay determination falls between two steps, pay will be set at the higher step.

c. Unless otherwise noted in this DHA-AI, an employee's existing rate of pay will be preserved to the maximum extent allowed within the framework of governing regulations, and highest previous rate (HPR) will be used to set pay whenever it is most advantageous to the employee.

d. The following rules will govern pay setting:

(1) Pay is set using the pay setting directives of the pay system into which the employee is moving and for which the action is being effected.

(2) Pay cannot be set at a rate below the first step or the lowest rate of the grade of the position to which assigned.

(3) Pay cannot be set at the rate above the top step or the highest rate of a grade unless authorized under grade and/or pay retention regulations.

(4) Pay on simultaneous actions is generally set in the order that gives the employee the maximum benefit.

(5) Unless the underlying General Schedule (GS) pay table is used, locality pay and the employee's official worksite must be taken into account when setting pay. The geographic conversion rule described in 5 C.F.R. 531.205 must be followed.

4. RESPONSIBILITIES. See Enclosure 2.

5. PROCEDURES. See Enclosure 3.

6. PROPONENT AND WAIVERS. The proponent of this publication is the Director, Administration and Management (J-1). When Activities are unable to comply with this publication the activity may request a waiver. Waiver requests must include a justification, including an analysis of the risk associated with not granting the waiver. The activity director or senior leader will submit the waiver request through their supervisory chain to the Director, J-1 to provide an opinion as to whether the waiver may be granted by the Director, DHA or their designee. A legal review of the waiver will be required.

7. RELEASABILITY. **Cleared for public release**. This DHA-AI is available on the Internet from the Health.mil site at: <https://health.mil/Reference-Center/Policies> and is also available to authorized users from the DHA SharePoint site at: <https://info.health.mil/cos/admin/pubs/SitePages/Home.aspx>.

8. EFFECTIVE DATE. This DHA-AI:

a. Is effective for all employees to include bargaining unit employees. It will go into effect for bargaining unit employees upon the completion of statutory bargaining obligations; and

b. Must be reissued, canceled, or certified current within 5 years of its publication in accordance with DHA. If not, it will expire effective 10 years from the publication date in accordance with Reference (c).

/S/
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Director

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ENCLOSURE 1

REFERENCES

- (a) DoD Directive 5136.01, “Assistant Secretary of Defense for Health Affairs (ASD(HA)), September 30, 2013, as amended
- (b) DoD Directive 5136.13, “Defense Health Agency (DHA),” September 30, 2013, as amended
- (c) DHA-Procedural Instruction 5025.01, “Publication System,” April 1, 2022
- (d) United States Code, Title 5
- (e) Code of Federal Regulations, Title 5
- (f) DoD Instruction 1400.25, “Civilian Personnel Management,” Volumes 530, 531, 536, and 550, August 9, 2019
- (g) Office of Personnel Management Federal Wage System Appropriated Fund Operating Manual
- (h) DoD Title 38 Special Salary Rate Schedules

ENCLOSURE 2

RESPONSIBILITIES

1. DIRECTOR, DHA. The Director, DHA will ensure appropriate and effective use of authorities to support mission requirements in accordance with applicable provisions of References (e) through (h).

2. DIRECTOR, J-1. The Director, J-1 will oversee the development and implementation of the Pay Setting policy and delegate day-to-day implementation responsibilities such as policy compliance and information transmission to the staff, as appropriate.

3. DHA MARKET, SSO, DHAR DIRECTORS. Will participate, as needed, with the servicing personnel office to appropriately apply the overarching principles of this DHA-AI.

4. DIRECTORS, MTF and DTF. MTF and DTF Directors will ensure the appropriate application of the overarching principles of this DHA AI.

5. HUMAN RESOURCES (HR) BRANCHES, MARKET HR BRANCHES. The HR Branches and Market HR Branches will:
 - a. Oversee and monitor the DHA Pay Setting policy to ensure consistency and conformity to governing rules and regulations throughout the DHA enterprise.

 - b. Coordinate with the Market Directors, SSO Directors and DHAR Directors on issues relating to the Pay Setting Policy.

6. MANAGERS AND SUPERVISORS. Managers and Supervisors are responsible for participating, as needed, in pay setting decisions. Decisions will be made in the best interest of all parties concerned, consistent with budgetary limitations and DHA policies.

7. DIRECTOR, HUMAN RESOURCE SERVICING CENTER (HRSC). The HRSC will:
 - a. Administer guidance to ensure the spirit and intent of the Office of Personnel Management (OPM), DoD, legal, and regulatory guidance are met.

 - b. Disseminate information and provide expert advice, guidance, and assistance on the technical details of pay setting to appropriate members of the staff, management, and leadership.

c. Ensure appropriate civilian human resource audits and reviews are accomplished on pay setting decisions.

d. Determine applicable pay rates prior to making a personnel action effective, consistent with OPM, DoD, regulations, and policies. Where discretionary action is permitted, the HRSC will consult with the appropriate management official to make necessary discretionary decisions and to ensure that the results are consistent with applicable laws, regulations, instructions, and policies.

ENCLOSURE 3

PROCEDURES

1. PAY SETTING PROVISIONS

a. New Appointees

(1) A new employee appointment for an individual who has no prior Federal service will normally be set at the minimum step/rate of the grade to which appointed, unless approval of 1.a.(2) of this Enclosure has been granted.

(2) Superior Qualifications and Special Needs (Advanced In-Hire Rate): Pay rates for individuals possessing Superior Qualifications and/or Special needs may be set higher than the minimum rate of pay based on the candidate possessing superior qualifications or the candidate filling a special Agency need.

(a) For GS positions, pay set at the Step 5 or below requires Director-level approval. Pay set above the Step 5 requires the approval of the DHA HR Branch Chief, Market Office HR Branch Chief, SSO HR Branch Chief, DHAR HR Branch Chief or delegate, as appropriate.

(b) For Federal Wage System (FWS) positions, pay set at the Step 2 or below requires Director-level approval. Pay set above the Step 2 requires the approval of the DHA HR Branch Chief, Market Office HR Branch Chief, SSO HR Branch Chief, DHAR HR Branch Chief or delegate, as appropriate.

(c) Justification/documentation and any appropriate approval for utilizing an advanced in-hire rate will be placed in the recruitment case file and in the employee's official personnel file. Documentation must include: superior qualifications of the individual or special agency need for the candidate's services that justifies a higher minimum rate; factor(s) and supporting documentation under Reference (e) Part 531.212(c) that were used to justify the rate at which the employee's pay is set; and reason(s) for authorizing a higher minimum rate instead of or in addition to a recruitment incentive.

b. HPR. Pay of an employee or former employee who is reemployed, transferred, promoted, reassigned, demoted, or converted (changed in appointment type) may be set using the HPR if all of the following conditions apply:

(1) The appointment in which HPR was earned lasted longer than 90 days.

(2) The HPR was earned for a continuous period in a pay status of at least 90 days.

(3) The pay set under the maximum payable rate rule may not exceed the rate for step 10 of the GS grade (step 5 of the FWS grade) or be less than the rate to which the employee would be entitled under normal pay setting rules.

c. Special Salary Rates. When a special salary rate table (References (g) or (h)) is applicable for the series, grade, and location of the position, the special salary rate table will be used. Normally, special salary rates will not be used for calculating HPR; however, they may be used if the following conditions apply:

(1) The employee is reassigned to another position in the same agency (i.e., another DoD entity/agency) at the same grade level;

(2) The special rate is the employee's rate of basic pay immediately before the reassignment; and;

(3) The hiring official finds that the need for the services of the employee, and the employee's contribution to the program of the agency, will be greater in the position to which reassigned. The hiring official must make such determination on a case-by-case basis. In each case, the hiring official must document the determination to use the special rate as an employee's HPR in writing.

d. Conversions. Upon conversion to a higher-graded position without a break in service, the employee's pay will be set using HPR (as long as it meets criteria in Paragraph 1.b. of this enclosure) or the mandatory promotion rule, whichever is most advantageous to the employee.

e. Changes to Lower Grade

(1) Change to lower grade initiated by management

(a) Downgrading an employee to lower grade who is ineligible for grade or pay retention benefits: Except as provided in paragraphs 1.e.(1)(b) and 1.e.(1)(c) of this enclosure, when an employee who is not eligible for grade or pay retention benefits is changed to a lower grade, pay will be set at the minimum rate in the lower grade which equals his/her current rate. If the employee's rate of pay falls between two steps in the lower grade, the pay will be set at the higher step.

(b) Change to lower grade based on failure to complete a supervisory probationary period: When an employee is promoted to a supervisory or managerial position does not satisfactorily complete the probationary period prescribed by Reference (d) 3321(a)(2) and, as a result, is removed from a supervisory or managerial position and returned to his/her previous grade prior to the supervisory position, the pay will be set at the step the employee would have earned had the employee not been promoted to the higher grade.

(c) Change to lower grade based on inadequate performance, disciplinary reasons, inability to maintain a required condition of employment (i.e., security clearance suspensions/denials, maintaining a valid driver's license, etc.), or other adverse reason, pay will be set at the minimum rate in the lower grade which equals his/her current rate. If the employee's rate of pay falls between two steps in the lower grade, the pay will be set at the lower step.

(2) Change to lower grade initiated by the employee

(a) Except as stated in 1.e.(2)(b) and 1.e.(2)(c) of this enclosure, if an employee accepts a lower-graded position at his/her request, pay will be set at the minimum rate in the lower grade which equals his/her current rate. If the employee's rate of pay falls between two steps in the lower grade, the pay will be set at the higher step.

(b) If an employee accepts a lower-graded position with known promotion potential to the grade currently held by the employee, pay will be set at a rate in the lower grade that will provide the employee no greater benefit on re-promotion than he/she would have attained had the employee remained in that grade (taking within grade increases into account).

(c) If an employee voluntarily accepts a change to a lower grade to enter a formal employee developmental program such as Upward Mobility, career internship, or local intern program, pay will be set at the minimum rate in the lower grade which equals his/her current rate. If the employee's rate of pay falls between two steps in the lower grade, the pay will be set at the higher step. If the employee's current rate exceeds the maximum pay rate of the position to which assigned, the employee is entitled to pay retention at his/her existing rate which cannot exceed 150 percent of the maximum rate of basic pay for the new grade.

(3) Change to lower grade based on return rights

(a) Change to lower grade following a temporary promotion: When an employee is returned to his/her permanent grade after a temporary promotion, pay will be set at the rate in the lower grade that the employee would have attained had the employee remained in that grade (taking within grade increases into account).

(b) Change to lower grade based on return rights from an overseas assignment: When an employee is reduced in grade upon return from an overseas assignment in accordance with the rotation agreement or has completed at least 1 year of the agreement and is released because of compelling personal reasons of a compassionate or humanitarian nature, pay will be set at the minimum rate in the lower grade which equals his/her current rate. If the employee's rate of pay falls between two steps in the lower grade, the pay will be set at the higher step. If the employee's current rate exceeds the maximum rate of the position to which assigned, the employee is entitled to pay retention at his/her existing rate which cannot exceed 150 percent of the maximum rate of basic pay for the new grade.

f. Promotions. Unless otherwise described in paragraph 1.f.(1) or 1.f.(2) of this enclosure, upon movement from a lower-graded position to a higher-graded position without a break in service, the employee's pay will be set using the mandatory promotion rules (2-step promotion rule for GS or the 4 percent promotion rule for FWS), or HPR, whichever is most advantageous to the employee.

(1) Temporary promotions made permanent

(a) If a temporary promotion is made permanent during the temporary promotion

time frame or immediately after the temporary promotion expires, the employee will not be changed to a lower grade prior to processing the permanent promotion, and there will be no change in pay. Time spent on the temporary promotion is considered creditable toward the next within-grade increase (WIGI).

(b) If there is a period of time between the temporary promotion ending and the beginning of the permanent promotion, the employee must be returned to the lower grade before processing the permanent promotion, and the pay for the promotion will be re-computed as if the employee had never been temporarily promoted. If the employee's temporary promotion was for more than 1 year, the rate received during the temporary promotion may be used in establishing the employee's HPR, and HPR may be used to set pay upon the permanent promotion. If an intervening change to lower-grade action is processed, time spent on the temporary promotion is not creditable toward the next WIGI.

(2) Promotion While on Pay Retention. An employee's promotion entitlement will be calculated based on the mandatory promotion rule, or application of maximum payable rate, whichever is most advantageous to the employee. An employee on pay retention will have mandatory promotion rule calculated based on the current grade, step 10, even if the retained rate is higher. After calculation, if pay can be set within the new grade, pay retention will be terminated.

g. Special Conversion Rules For Certain Non-GS Employees. When an employee moves, without a break in service, to a GS position from a non-GS pay system under Reference (d) chapters 47 (personnel demonstration project), 95 (Internal Revenue Service broadbanding system), or similar provision of law, and that system provides that an employee will be converted to GS-equivalent rates immediately before leaving the non-GS pay system, the employee is considered a GS employee in applying the pay setting provisions of Reference (e) part 531, subpart B, and the grade and pay retention provisions of Reference (e) part 536.

h. Representative Rates

(1) GS employees. The representative rate for GS positions is step 4 of the highest applicable rate range that applies to the position.

(2) FWS employees. The representative rate for the FWS is step 2 of the grades for wage grade workers, wage leaders, and wage supervisors' wage schedules, or, in the case of a position with a single rate, the single rate of that position.

(3) Movement Between Pay Systems. When moving between the GS and FWS pay systems, representative rates are used to determine whether the grade of a position is equal to, higher than, or lower than the grade of another position when determining:

(a) Eligibility for grade retention;

(b) Loss of or termination of grade retention when an employee is placed in a lower-graded position and the action is taken for personal cause or at the employee's request;

- (c) When an employee moves to a position with an equal or higher grade;
 - (d) Loss of eligibility or termination of grade retention based on declination of a reasonable offer of a position with an equal or higher grade, or
 - (e) Loss of eligibility for pay retention or termination of a retained rate when an employee is placed in a lower-graded position for personal cause or at the employee's request.
- i. Restoration. When an employee entitled to mandatory restoration is reemployed, the employment status is restored as if the employee had never left Federal employment (including within grade increases (WIGI), annual adjustments, and career ladder promotions). Such cases may arise from employment following military service, restoration of employees who sustain compensable injuries, and reemployment after a separation or removal under an unwarranted or unjustified personnel action.

2. PAY ACTION EFFECTIVE DATES

- a. Verification of Pay After Effective Date. If verification of a former rate of pay is not possible prior to the effective date of action, the action may be processed at the minimum rate of the grade subject to upward adjustment in accordance with this pay setting policy provided the Standard Form-50 is appropriately annotated to allow for such adjustment. It may be processed retroactively to date of accession action.
- b. Delaying an Effective Date. An employee selected for a position under a merit promotion plan who is due a WIGI in the current grade within 30 days from the date of selection may have the effective date of the action delayed until after the WIGI is effective, if the selecting official agrees.

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

DHA	Defense Health Agency
DHA-AI	Defense Health Agency-Administrative Instruction
DTF	dental treatment facility
FWS	Federal Wage System
GS	General Schedule
HPR	Highest Previous Rate
HR	Human Resources
HRSC	Human Resource Servicing Center
J-1	Administration and Management
MTF	military medical treatment facility
OPM	Office of Personnel Management
WIGI	within-grade increase

PART II. DEFINITIONS

bargaining unit. A group of employees represented by a labor organization.

change to lower grade. The change of an employee to a position with a lower representative rate of basic pay.

competitive service. Federal positions normally filled through open competitive examination under civil service rules and regulations.

conversion. The process of changing an employee's tenure from one type of appointment to another, e.g., conversion from temporary to career-conditional or conversion from excepted service to competitive service.

detail. A temporary assignment of an employee to a different position for a specified period of time when the employee is expected to return to his or her regular duties at the end of the assignment. There is no change in pay entitlements.

eligible. The determination that an applicant meets the minimum qualification and requirements for a position.

examination. A method of evaluating applicants for employment in specific positions.

excepted service. Positions in the Federal Civil Service not subject to the appointment requirements of the competitive service. Exceptions to the normal competitive requirements are authorized by law, executive order, or regulation.

FWS. Covering employees in trades, crafts, or labor occupations, whose pay is fixed and adjusted periodically in accordance with prevailing rates. (Wage Grade, Wage Leader, Wage Supervisor, and others).

GS. A pay system as presented by Chapter 51 of Reference (e).

grade. All classes of positions which, although different with respect to subject matter of work, are sufficiently equivalent in the level of difficulty and responsibility, and level of qualification requirements of the work to warrant the inclusion of such classes of positions within one range of rates of basic compensation.

grade retention. The right of a GS or prevailing rate employee, when demoted for certain reasons, to retain the higher grade, for most purposes, for a period of 2 years.

intermittent. Work schedule less than full time requiring irregular hours, which cannot be Pre-scheduled.

OPM. The federal agency that regulates, administers, and evaluates the civil service program according to merit principles.

position. A specific job consisting of the current major duties and responsibilities assigned or delegated by management.

promotion. The change of an employee to a position at a higher-grade level under the GS, wage grade schedule (or equivalents), to a position with a higher representative rate of basic pay.

qualifications. Education, experience, and other prerequisites to employment or placement in a position as defined by OPM.

reassignment. The change of an employee while serving continuously with the same agency, from one position to another without promotion or change to lower grade.

WIGIs. An increase in employee's rate of basic pay by advancement from one step of their grade to the next after meeting requirements for length of service and performance.