

**55:09:04:02. Sick leave.** Sick leave with pay shall be accrued each semimonthly pay period in equal increments to the maximum specified in SDCL 3-6C-7. An employee paid monthly shall accumulate sick leave at a rate of 9.334 hours per month. An employee who works less than full time shall accrue prorated sick leave based on the number of hours paid in the pay period.

Sick leave may be granted for personal illness; pregnancy ~~and related disabilities~~, the birth or the placement for adoption or foster care of a child, in order to bond with a child within one year of child's birth or placement; exposure to contagious diseases that would endanger the health of fellow employees; required eye and dental care; required medical examination; or inpatient or outpatient treatment in approved centers for alcohol, drug abuse, psychiatric or counseling care. An employee who is on approved leave, except terminal vacation leave, and becomes injured or ill may use sick leave.

The appointing authority may, with the approval of the commissioner, require the employee to produce a doctor's statement to support a request for sick leave.

**Source:** 39 SDR 99, effective December 3, 2012.

**General Authority:** SDCL 3-6C-7, 3-6C-18.

**Law Implemented:** SDCL 3-6C-7, 3-6C-18.

**55:09:04:12. Family and medical leave.** Family and medical leave is available to an employee who has worked for twelve months or more and who has worked 1,250 hours or more. Up to 12 weeks of sick leave, personal leave, vacation leave, leave without pay, or any

combination of these leaves may be taken as family and medical leave. An employee may request family and medical leave for any of the following purposes:

- (1) The birth of a child of the employee ~~and care for the newborn child~~ or the placement of a child with the employee for adoption or foster care;
- (2) ~~The placement of a child with the employee for adoption or foster care~~ To bond with a child so long as the leave is taken within one year of the child's birth or placement;
- (3) The need to care for the spouse, child, or parent of the employee if the spouse, child, or parent has a serious health condition;
- (4) A serious health condition; or
- (5) A qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or called to active duty status as a member of the National Guard or another reserve component of the armed forces of the United States in support of a contingency operation. A qualifying exigency includes the attending of certain military events, arranging for alternative childcare, addressing of certain financial and legal arrangements, attending of certain counseling sessions, and attending of post-deployment reintegration briefings.

An employee who has worked for twelve months or more and who has worked 1,250 hours may also request family and medical leave to care for a spouse, son, daughter, parent, or the employee's next of kin of a covered servicemember with a serious injury or illness. A covered servicemember is anyone currently a member of the regular armed forces, a reserve component of the armed forces, or the National Guard. A serious injury or illness is an injury or

illness incurred by a covered servicemember in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of the servicemember's office, grade, rank or rating and for which the servicemember is undergoing medical treatment, recuperation, therapy, or outpatient treatment or is on the temporary disability retired list. An employee may also take military caregiver leave to care for a family member who sustained a qualifying injury for up to five years after the member has been discharged from military service. Up to 26 weeks of personal leave, vacation leave, leave without pay, or any combination of these leaves may be taken as family and medical leave for military caregiver leave during a single 12-month period.

The use of sick leave shall comply with SDCL 3-6C-7 and 3-6C-8. If sick leave is used for any part of the family and medical leave, the employee may be required to support the request with a statement from a medical doctor certifying the nature of the serious health condition.

**Source:** 39 SDR 99, effective December 3, 2012.

**General Authority:** SDCL 3-6C-18.

**Law Implemented:** SDCL 3-6C-18.

## **CHAPTER 55:10:11**

### **ADMINISTRATION OF COMPENSATION PLAN**

Section

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**55:10:11:01. ~~Salaries~~ Compensation.** The ~~salary~~ pay of employees occupying civil service positions shall be within the ~~salary schedule~~ pay range approved by the commission for the respective ~~class~~ classification. Any ~~change in salary rate of pay~~ set pursuant to this chapter ~~that has an impact upon the fair, equitable, and consistent treatment of any employee~~ is subject to the review and approval of the commissioner ~~prior to the commissioner's approval of the payroll~~ and shall take into consideration internal equity, budget, and market conditions. Unless otherwise provided, an employee's rate of pay may not be less than the minimum of the applicable pay grade and may not exceed the maximum of the pay grade.

**Source:** 39 SDR 99, effective December 3, 2012.

**General Authority:** SDCL 3-6D-11.

**Law Implemented:** SDCL 3-6D-11.

**55:10:11:02. ~~Salary ranges~~ Pay grades.** The commissioner shall recommend ~~salary ranges~~ pay grades for each classification based on the level of responsibilities and skill required of the position, including know-how, problem-solving, accountability, working conditions, the state's ability to pay, economic conditions, comparable salary ranges for similar positions in other governmental jurisdictions and private business, and other pertinent data. The ~~salary ranges~~ pay grades recommended by the commissioner, if approved by the commission, shall be filed in the Bureau of Human Resources.

**Source:** 39 SDR 99, effective December 3, 2012.

**General Authority:** SDCL 3-6D-11.

**Law Implemented:** SDCL 3-6D-11.

**55:10:11:03. Out-of-class pay.** If an employee is temporarily required to serve in and accept the responsibility for work in a position ~~of~~ with a higher ~~salary~~ market value for more than five working days, the employee ~~shall receive the entrance rate of the class assigned or five percent~~ may receive up to ten percent above the employee's present rate, ~~whichever is higher but~~ shall receive at least the minimum rate of the pay grade for that position. The ~~higher rate~~ rate of pay may be retroactive to the first day of assignment. The compensation period for a temporary assignment may not exceed 90 working days, but may be extended with the approval of the commissioner.

**Source:** 39 SDR 99, effective December 3, 2012.

**General Authority:** SDCL 3-6D-11.

**Law Implemented:** SDCL 3-6D-11.

**55:10:11:04. Compensation of temporary employees.** Temporary employees shall be paid according to ~~a plan approved by the commissioner~~ the pay grade assigned to the position.

**Source:** 39 SDR 99, effective December 3, 2012.

**General Authority:** SDCL 3-6D-11.

**Law Implemented:** SDCL 3-6D-11.

**55:10:11:05. Compensation for part-time permanent employees.** A part-time employee who works on an on-going basis regardless of the number of hours worked each week is subject to the same ~~salary schedule~~ pay structure as a full-time employee.

**Source:** 39 SDR 99, effective December 3, 2012.

**General Authority:** SDCL 3-6D-11.

**Law Implemented:** SDCL 3-6D-11.

**55:10:11:06. Starting rate on initial employment.** ~~The original appointment to a position shall be made at the minimum of the range. If qualified applicants are not available at the minimum of the range, the appointing authority may hire at up to 25 percent of the range. In making an appointment above the minimum of the range, the appointing authority shall take into consideration the internal comparison of salaries, available budget, the availability of applicants, market conditions, or any combination of these~~ An employee's starting rate of pay may not exceed 90 percent of market value of the pay grade assigned to the position without approval of the commissioner. The appointing authority shall consider internal equity, budget, the availability of applicants, and market conditions. With the prior approval of the commissioner, an appointing authority may hire ~~at~~ up to the maximum of the range. Criteria for approval include ~~available budget, market conditions, availability and qualifications of applicants, salaries of employees in like classes, or any combination of these~~ internal equity, budget, the availability of applicants, and market conditions.

**Source:** 39 SDR 99, effective December 3, 2012.

**General Authority:** SDCL 3-6D-11.

**Law Implemented:** SDCL 3-6D-11.

**55:10:11:07. Starting rate on return to duty.** If a former employee returns to duty in the same ~~class of positions~~ classification after a break in service of ~~not more~~ less than one year, the employee's ~~salary~~ rate of pay may not exceed the rate the employee received at the time of separation. ~~If the employee meets the criteria in § 55:10:11:06, the employee may be reemployed at a rate up to the maximum of the salary range with the prior approval of the commissioner.~~

**Source:** 39 SDR 99, effective December 3, 2012.

**General Authority:** SDCL 3-6D-11.

**Law Implemented:** SDCL 3-6D-11.

**55:10:11:08. Starting rate on return from military service.** If an employee ~~leaves the~~ civil service terminates employment for active duty in the armed forces and returns, the employee shall be placed at the level of ~~the salary range~~ pay of the previous position that the employee would ~~occupy~~ have earned had the employee not left ~~the civil service, if the employee is qualified to fill the position~~ employment.

**Source:** 39 SDR 99, effective December 3, 2012.

**General Authority:** SDCL 3-6D-11.

**Law Implemented:** SDCL 3-6D-11.



**55:10:11:09. ~~Rate of compensation of exempt state employee entering the civil service~~ Rate of pay upon entering civil service from civil service exempt position.** If an exempt state employee in a position exempt from civil service accepts a civil service position in a classification with a range minimum rate equal to or ~~higher~~ greater than the employee's ~~current~~ prior position, the employee's ~~salary shall be fixed~~ rate of pay shall be adjusted in accordance with § 55:10:11:13. If an exempt employee accepts a position that is a demotion, the ~~salary shall be fixed~~ employee's rate of pay shall be adjusted in accordance with § 55:10:11:11. In no case may the ~~salary~~ pay rate exceed the maximum of the ~~range~~ pay grade.

**Source:** 39 SDR 99, effective December 3, 2012.

**General Authority:** SDCL 3-6D-11.

**Law Implemented:** SDCL 3-6D-11.

**55:10:11:10. ~~Rate of pay as a result of the change in salary range of a class~~ Rate of pay upon change in pay grade of classification.** If the salary range of a class is changed to a higher minimum rate, the employee shall receive at least the minimum of the new salary range. An employee's salary shall be adjusted to at least five percent above the minimum of the salary range upon completion of six months of service in the new salary range. If the salary range of a class is changed to a lower minimum rate, the employee shall maintain the employee's current salary. If the pay grade of a classification is changed to one with a greater market value, the incumbents shall receive a rate of pay at least equal to the new minimum of the new pay grade. An employee's rate of pay shall be adjusted to at least five percent above the minimum of the pay grade upon completion of six months of service in the new pay grade. If the pay grade of a

classification is changed to one with a lower market value, the incumbents' rate of pay may not be adjusted.

**Source:** 39 SDR 99, effective December 3, 2012.

**General Authority:** SDCL 3-6D-11.

**Law Implemented:** SDCL 3-6D-11.

**55:10:11:11. ~~Rate of pay on demotion or reclassification to lower pay grade~~ Rate of pay on demotion or reclassification to a pay grade with a lower market value.** If an employee voluntarily accepts a demotion or is demoted for cause, the employee shall receive a rate of pay in the lower ~~salary range~~ pay grade that the appointing authority considers appropriate, taking into consideration ~~salaries paid to employees in like classes and budget restrictions~~ internal equity and budget. In no case may the employee receive an increase in pay. ~~If an employee is reclassified to a position with a lower pay grade, the employee shall retain the employee's previous salary~~ If an employee's position is reclassified to a classification with a lower market value, the employee's rate of pay shall not be adjusted.

**Source:** 39 SDR 99, effective December 3, 2012.

**General Authority:** SDCL 3-6D-11.

**Law Implemented:** SDCL 3-6D-11.

**55:10:11:12. ~~Rate of pay on transfer~~ Rate of pay upon relocation.** If an employee is ~~transferred~~ relocated at the request of the appointing authority and the change requires the

~~employee to relocate the employee's residence but the change is not a promotion or demotion, the employee may receive up to a five ten percent increase in pay if the character and nature of the duties of the former position provided experience valuable to the performance of the new position. The employee's salary may not be less than the minimum or more than the maximum of the established salary range.~~

**Source:** 39 SDR 99, effective December 3, 2012.

**General Authority:** SDCL 3-6D-11.

**Law Implemented:** SDCL 3-6D-11.

**55:10:11:13. Rate of pay on promotion.** ~~If a status employee competes for a position with an equal or higher minimum rate and is selected, the appointing authority may approve up to a five percent increase in pay. With prior approval of the commissioner, an increase of over five percent may be given. Criteria for approval include the size of the new position, salaries of incumbents in like classes, availability of applicants outside state government, and budget availability. An employee's salary shall be adjusted to a least five percent above the minimum of the salary range after the completion of six months of service in the new class~~ When an employee accepts appointment to a position with a higher market value than the employee's previous position, the appointing authority may request an increase in pay up to 90 percent of the market value of the new position. With prior approval of the commissioner, an increase of over 90 percent of market value, up to the market value, may be given. Criteria for approval includes internal equity, availability of applicants outside state government, and budget. An employee's

rate of pay shall be adjusted to at least five percent above the minimum of the pay grade after the completion of six months of service in the new classification.

~~The employee's salary may not be less than the minimum or more than the maximum of the salary range.~~

**Source:** 39 SDR 99, effective December 3, 2012.

**General Authority:** SDCL 3-6D-11.

**Law Implemented:** SDCL 3-6D-11.

**55:10:11:14. ~~Rate of pay on reclassification to higher pay grade~~ Rate of pay on classification to a pay grade with a higher market value.** If a position is reclassified to a classification with a higher ~~minimum rate~~ market value, the incumbent may receive the minimum rate or up to a ~~five~~ ten percent increase in base pay, whichever is greater. An employee's ~~salary~~ rate of pay shall be adjusted to at least five percent above the minimum of the ~~salary range~~ pay grade upon completion of six months of service in the new classification.

~~The incumbent's salary may not be less than the minimum or more than the maximum of the salary range of the new classification.~~

**Source:** 39 SDR 99, effective December 3, 2012.

**General Authority:** SDCL 3-6D-11.

**Law Implemented:** SDCL 3-6D-11.

**55:10:11:15. Rate of pay for additional duties.** ~~In accordance with this section, the~~ The commissioner shall establish guidelines for salary adjustments based on the assignment of additional duties that add to the difficulty of the position but do not warrant reclassification of the position. If an employee is assigned additional duties, the employee may receive up to a five percent increase in pay in accordance with the guidelines established by the commissioner.

~~Additional duties may result from vastly increased supervisory or administrative duties, reorganization of internal functions, or department personnel cutback. Criteria used to evaluate pay for additional duties include compensation of extra work through overtime pay, available time before assignment of new duties, and the level of difficulty of new duties.~~

**Source:** 39 SDR 99, effective December 3, 2012.

**General Authority:** SDCL 3-6D-11.

**Law Implemented:** SDCL 3-6D-11.

**55:10:11:16. Rate of pay on relocation for law enforcement.** ~~If a law enforcement employee is relocated at the request of the appointing authority and the change requires the employee to relocate the employee's residence but is not a promotion or demotion, the appointing authority may authorize up to a 15 percent increase in pay for not more than one year~~ Repealed.

**Source:** 39 SDR 99, effective December 3, 2012.

**General Authority:** ~~SDCL 3-6D-11.~~

**Law Implemented:** SDCL 3-6D-11.

**55:10:11:17. Basis for salary adjustments Discretionary pay adjustments.** ~~If an employee's current salary is under 50 percent of the range, the appointing authority may authorize up to a five percent increase in salary not to exceed 50 percent of the range. Criteria for adjustments within a salary range include performance, internal equity within the department, labor market conditions, length of service, and the state's ability to pay salaries of employees in like classes, or any combination of these. The total of any salary increases given an employee may not in any one year period exceed ten percent of the employee's salary. The total of such increases is determined by examining the twelve months preceding any proposed increase. Increases exceeding these guidelines shall have prior approval of the commissioner. Criteria for approval of the increases include performance, internal comparison of salaries within the department, salaries paid to employees in like classes, budget restrictions, labor market conditions, length of service, recruitment and retention issues, or any combination of these. In no case may the incumbent receive more than the maximum of the salary range~~ If an employee's rate of pay is below the market value of the pay grade, the appointing authority may request an increase in pay. The total of any discretionary pay increases given to an employee may not exceed ten percent of an employee's rate of pay in any twelve month period. The total of such increases is determined by examining the twelve months preceding any proposed increase. Criteria for discretionary increases include performance, internal equity, budget, market conditions, length of service, recruitment and retention issues, or any combination of these. In no case may the employee receive more than the maximum of the pay grade.

**Source:** 39 SDR 99, effective December 3, 2012.

**General Authority:** SDCL 3-6D-11.

**Law Implemented:** SDCL 3-6D-11.

**55:10:11:18. Salary Pay adjustment upon completion of probation.** An employee's ~~salary rate of pay~~ shall be adjusted to at least five percent above the minimum of the ~~salary range pay grade~~ upon completion of the probationary period. If the employee's ~~salary rate of pay~~ is more than five percent above the minimum of the ~~range pay grade~~, the employee's ~~salary pay~~ may be adjusted ~~at any time between~~ upon the completion of the probationary period ~~and twelve months of service~~ by up to five percent ~~at the discretion of the appointing authority~~. In no case may the ~~salary~~ employee's rate of pay exceed the maximum of the ~~salary range pay grade~~.

**Source:** 39 SDR 99, effective December 3, 2012.

**General Authority:** SDCL 3-6D-11.

**Law Implemented:** SDCL 3-6D-11.