

Office of Operations  
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***Back to Basics***  
**Step 3 Grievances**

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# STEP 3 GRIEVANCE

## What is a Step 3 Grievance?

A Step 3 Grievance is a monetary award by which an employee may be compensated for the difference between his or her actual Grade/Position and for work performed Out-Of-Title in a higher Grade/Position.



# HOW CAN AN EMPLOYEE RECEIVE A STEP 3 GRIEVANCE SETTLEMENT?

- An employee must file a grievance with their Union and Governor's Office of Employee Relations (GOER) that indicates that they are working out-of-title and are performing the work of a higher grade.
- GOER issues a determination as to whether the employee is working Out-Of-Title, at what grade level the employee will be compensated, and for what timeframe the employee should be compensated for performing this work.



# PAYMENT CAN BE MADE WHEN...

A Determination has been issued with one of the following types of payment periods covered:

1. A begin date and end date as indicated in the Grievance Settlement.

OR

2. A begin date as indicated in the Grievance Settlement and an end date of either “Through the Date the Out-Of-Title Work Ceases” or no more than 30 days after the grievance was signed, whichever comes first. (M/C employees are not entitled to this option)

\* The start date may be no more than 15 calendar days prior to the filing of the grievance for all bargaining units except Management Confidential (M/C), which can be no more than 45 calendar days.



# EXTENSIONS

If the second type of date determination is used, the Agency may extend the Grievance for up to 2 six-pay period extensions by sending OSC first and second extension letters to the Director of OSC Payroll.

A third extension may be authorized by GOER (for non-specific time frame).

If the employee is continuing to work Out-Of-Title beyond the third extension, he or she must file a new grievance.

\* M/C employees are not entitled to any extensions and must file a new grievance for any time worked beyond the scope of the original decision.



# CALCULATING THE SETTLEMENT

1. Determine the employee's salary for the period covered in the Settlement.



# CALCULATING THE SETTLEMENT CONTINUED...

2. Determine what the employee would be making if he or she were in the Out-Of-Title position for the period of the settlement.
  - A. Make sure you use the appropriate Bargaining Unit Salary Charts.
  - B. Calculate the salary by using the promotional percentage method\*(including LLS where appropriate) or the hiring rate of the higher grade, whichever salary is higher. Note that the Job Rate of the higher grade can be exceeded using the promotion method.

\*1 ½ % for the promotion itself, and 1 ½% for each grade level of the promotion. (Example: SG6 to SG9 = 6%).



# CALCULATING THE SETTLEMENT CONTINUED...

- C. Only use the annual salary (no Additional Pay factors) when determining the Out-Of-Title salary
  - \* **\*Exception\*** If a PEF employee has a longevity bonus (LLS) paid after 9/14/04 in the lower grade, add the longevity payment to the annual salary and then promote to determine the new salary. (You would still use the hiring rate of the higher grade if it is a higher dollar amount).
- D. Subtract the salary of the lower grade from the newly calculated higher graded salary.





# CALCULATING THE SETTLEMENT CONTINUED...

- E. Multiply the results from Step D by the appropriate factor (.038356 or .038251-Leap Year) to determine the difference in the bi-weekly amounts.
- F. Multiply the results of Step E. by the number of pay periods to be paid. (Example: To pay an employee 8 pay periods and 4 days, multiply the results from Step E. by 8.4 to determine the total owed for that timeframe).
- G. Repeat steps 1-6 for each time there is a salary change on the employee's record and at the beginning of each fiscal year for the time indicated in the Step 3 Grievance settlement.



# OVERTIME

- It is at the agency's responsibility whether or not to adjust overtime to reflect Out-Of-Title work, since they are aware of what duties were being performed during the overtime period. It should be calculated the same way as annual overtime.



# WHAT DOES OSC NEED IN ORDER TO PROCESS THE S3G??

- A completed, signed copy of the Step 3 Grievance Settlement from GOER.
  - M/C agreements are not available through NYSTEP. OSC will request a copy from the Agency when the S3G transaction is submitted.

AND

- Extension Letters 1, 2 or 3
- General Comments, including:
  - What Grade the employee was being paid in during the timeframe noted.
  - What Grade GOER determined the employee was working the Out-Of-Title work in during the timeframe noted.
  - The dates to be paid.



# WHAT DOES OSC NEED IN ORDER TO PROCESS THE S3G??

- General Comments including continued:
  - The calculation of the difference in pay between the 2 grades for each change in the employees salary during the disputed time.
  - The total amount of Overtime to be paid (if any) at the higher rate.
  - The total amount to be paid in Time Entry.
- Time Entry
  - S3G Amount
  - Earnings Begin and End date



# PROCESSING THE STEP 3 GRIEVANCE PAYMENTS

- Agency must enter General Comments and amounts owed using Earn Code S3G on the Time Entry Page as follows:
  - Earnings Begin Date
  - Earnings End Date
  - S3G** amount
  - Time Entry Comments: See General Comments



# PROCESSING THE STEP 3 GRIEVANCE PAYMENTS CONTINUED

- Amounts may be entered in the following ways:
  1. As a lump sum amount using the first day of the settlement and the last day of the settlement (or the last day of the current pay period if there will be future bi-weekly payments as part of the settlement or extension); or
  2. Bi-weekly payments until the settlement/extension has been satisfied.
- Be sure to:
  1. Split the payments by Fiscal Year.
  2. Split the payments by salary changes as indicated on the Job Data page.



# WHAT HAPPENS NEXT?

- If the OSC auditor agrees with the agency's calculations in General Comments he/she will approve the Step 3 Grievance Payment.
- If the OSC auditor does NOT agree with the agency's calculations he/she will contact the agency to discuss the disagreement.



# WHAT HAPPENS NEXT CONTINUED...

- Once the agency and OSC agree as to how the Step 3 Grievance should be paid then:
  - OSC will create additional General Comments to support the agreed upon calculation.
    - If OSC does not agree with the agency's calculations, the auditor will contact the agency to discuss.
  - Depending upon time, Agency will be instructed to either resubmit the S3G transaction or enter in a future pay period.





# ? QUESTIONS ?

If you have any questions please direct them to the Payroll Earnings Mailbox at

[PayrollEarnings@OSC.state.ny.us](mailto:PayrollEarnings@OSC.state.ny.us)

