
MANAGEMENT DIRECTIVE

590.8
Amended
Number

COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE

Subject:

Classification Grievance Processing

By Direction Of:


Joseph S. Martz, Secretary of Administration

Date:

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The administration of classification grievances is an integral part of the collective bargaining process. This directive contains additional detail to the current policy and procedures for investigating, analyzing, and responding to classification grievances and includes updated language for organizational titles and SAP terms.

- 1. PURPOSE.** To identify the information that must be gathered, verified, and evaluated at each step of the classification grievance procedure, and to identify the purpose and role of each step in the processing of classification grievances.
- 2. SCOPE.** This directive applies to employees in all agencies under the Governor's jurisdiction.
- 3. OBJECTIVE.** Thorough, understandable, and accurate position information and related organizational information must be carefully compiled as classification grievances pass through each step of the grievance procedure. Failure to do so results in delays in grievance processing, incorrect decisions, reversal of decisions made at previous steps, and major difficulties during arbitration proceedings. The following procedures identify each step of the classification grievance procedure, describe of what information should be assembled, and explain how that information should be verified.
- 4. PROCEDURES.**

NOTE: Most classification grievances filed by non-supervisory employees are processed through the five steps described below which coincide with the Standard Grievance Procedure in the American Federation of State, County and Municipal Employees (AFSCME) Master Agreement. However, first-level supervisory employees covered by a memorandum of understanding do not have arbitration rights for classification matters, and therefore, have only four steps in their classification grievance procedure. In addition, some rank and file agreements such as Pennsylvania State Corrections Officer Association (PSCOA), Fraternal Order of Police (FOP), and Service Employees International Union 1199P (SEIU 1199P) utilize a four step classification grievance procedure where the fourth step is arbitration. Check the appropriate labor agreement for the exact number of steps in the classification grievance procedure.

a. Step 1. The immediate supervisor is the first person to receive an employee's written classification grievance. However, the immediate supervisor does not have the authority to resolve a classification grievance. Therefore, the immediate supervisor should only address the accuracy of the information provided, and not the technical merits of the grievance or the ability of the grievant to perform higher level work. Furthermore, the supervisor should not express an opinion, orally or in writing, on the merits of the grievance.

The immediate supervisor should complete the review and documentation process in the following manner at Step 1:

(1) Carefully review the statement of grievance, the position description, any specific allegations of working out-of-class, and any other accompanying information. If any information is missing, the supervisor should request that the employee provide the missing data, such as a position description, an out-of-class work statement, or alleged dates and times. The supervisor should keep in mind that permanent work is relevant only to reclassification claims and that temporary work is relevant only to working out-of-class claims.

(2) If the position description or out-of-class work statement is accurate and complete, the supervisor should sign the position description or statement.

(3) If the supervisor does not agree that the position description or out-of-class work statement is accurate and complete, the specific exceptions should be documented, in writing, and retained by the supervisor for submission to reviewers at subsequent steps.

(4) The response at Step 1 should state only that the supervisor does not have classification authority to resolve the grievance.

b. Step 2. The second level of review can include the employee's Reviewing Officer, Division Chief, Bureau Director, Institution Head, Executive Director, or appropriate designee. The review accomplished at this level is to ensure that the appropriate materials have been developed, provided, and reviewed at Step 1, and to obtain agreement on the specific content or any discrepancies in the grievance allegations. Because in most agencies the individual responding at Step 2 does not have the authority to resolve a classification grievance, the response should not address the technical merits of the grievance or the ability of the grievant to perform higher level work.

NOTE: If the individual responding at Step 2 does have the authority to resolve a classification grievance, the procedure for Step 3 should be followed.

If a classification analyst is participating in the Step 2 review, but does not have the authority to resolve a grievance, a technical evaluation and recommendation on the appropriate level of either the permanent or temporary duties and responsibilities should be prepared for submission to the agency's central Human Resource Office when the grievance is submitted to Step 3. The Step 2 response should not refer to this report or the recommendation. The response should state only that the responder does not have classification authority to resolve the grievance.

The appropriate individual should complete the review and documentation process in the following manner at Step 2:

(1) Review the statement of grievance, position description, or out-of-class work statement and alleged dates and times for accuracy and completeness.

(2) The individual responding at Step 2, the immediate supervisor, the grievant, and the union representative, if the grievant so chooses, should meet to resolve any outstanding discrepancies. Any differences of opinion as to the facts of the grievance should be identified and documented in writing and retained by the immediate supervisor for submission to reviewers at subsequent steps.

(3) An attempt should be made to have the employee and the supervisor sign a statement agreeing to those parts of the position's permanent duties and responsibilities or alleged temporary out-of-class work which are not in dispute.

(4) The response at Step 2 should state only that the individual responding does not have classification authority to resolve the grievance.

c. Step 3. The third step is the final step at which an agency can review a classification grievance. Therefore, it is important that the accuracy of all grievance information be verified, that a technical review of the work occurs, and that every effort be made to resolve the grievance. All grievances must be answered by the agency based on accurate and verified information at Step 3. If the job classification being sought is centralized, all phases described below should be completed except that the response should not indicate a technical decision or recommendation. The response should state only that the agency does not have classification authority to resolve the grievance.

The classification analyst at the agency should complete the review and documentation process in the following manner at Step 3:

(1) Verify the submission of all position and organizational information, and any additional information relating to the duties and responsibilities assigned either permanently or temporarily to the grievant's position, and request any information missing from the grievance package from the union.

(2) If the information gathering process for a classification grievance is expected to extend beyond the labor agreement time limit for a Step 3 response, the union must be asked to grant an extension of time to allow for proper information gathering and analysis.

(3) To facilitate the investigation of the grievance, it is recommended that a desk audit involving the grievant and union representative (if applicable) be conducted on the grievant's position.

(4) As a result of the desk audit, and/or follow-up discussions with the supervisor and/or other management personnel, the classification analyst should document the agreed upon duties and responsibilities and note any which are still in dispute.

(5) The classification analyst should prepare a technical evaluation and recommendation on the appropriate job for the duties and responsibilities assigned to the grievant's position, either permanently or temporarily. If the appropriate job or job sought is decentralized, the agency should issue a response to the union in writing on the technical merits of the grievance. If the appropriate job or job sought is centralized, the response should state only that the agency does not have classification authority to resolve the grievance.

(6) The agency Human Resource Office should maintain a complete file of all classification grievance material that has been compiled at each step of the grievance procedure. Such material should include an agreed upon position description or an agreed upon statement of alleged temporary higher level duties and responsibilities, a technical evaluation, an organization chart, any statements by the supervisor or manager concerning problems with the employee-prepared position description or list of alleged temporary higher level duties and responsibilities, and any other relevant documentation. Upon request, this material is to be provided to the Classification Grievance Unit in the Bureau of Classification, Compensation and Workplace Support, Office of Administration.

d. Step 4. Fourth step submissions of classification grievances are investigated and answered by the Classification Grievance Unit in the Bureau of Classification, Compensation and Workplace Support, Office of Administration. This is typically the final step before a grievance may be brought before an arbitrator. However, the fourth step decision is final and binding for grievances filed on behalf of employees covered by a memorandum of understanding.

The analyst in the Classification Grievance Unit in the Bureau of Classification, Compensation and Workplace Support, Office of Administration, should complete the review and documentation process in the following manner at Step 4:

(1) Request all relevant classification grievance material from the agency and any information missing from the grievance package from the union.

(2) Based on the agency's classification grievance material and the information contained in the grievance package, the reviewing analyst determines the appropriate method of investigation, e.g., grievance hearing, discussion with the grievant's supervisor, and/or discussion with the reviewing analyst(s) at the previous step(s).

(3) As a result of the information collected and analyzed, a fourth step response to the grievance is issued in writing to the union. The affected agency Human Resource Office is copied on the response.

e. Step 5. This is the final step in the classification grievance procedure, and it involves either advisory or binding arbitration, depending on the nature of the classification issue.

The procedures are:

(1) The union indicates its intent to arbitrate the grievance by notifying the Classification Grievance Unit in the Bureau of Classification, Compensation and Workplace Support, Office of Administration, in writing.

(2) The union and the Classification Grievance Unit select an arbitrator from a panel of classification arbitrators which have been jointly selected by the parties or by striking from a list of arbitrators provided by the Bureau of Mediation, Department of Labor and Industry, or the American Arbitration Association for PSCOA grievances.

(3) With the assistance of agency Human Resource Office staff, management, and supervisory staff, the Classification Grievance Unit prepares its case for arbitration and advocates the Commonwealth's position.

(4) The Classification Grievance Unit officially transmits the arbitration award upon receipt to the affected agency Human Resource Office. If the grievance is sustained, direction will be provided to the affected agency Human Resource Office on how to implement the award.

f. Suggestions. The following suggestions may help to effectively investigate and complete the data gathering and analysis process at Steps 3 and 4 of the classification grievance procedure:

(1) Use those individuals with firsthand knowledge of the grievant's work as sources of information. This is essential to establishing the credibility of witnesses and obtaining the most accurate job information.

(2) Determinations to compensate an employee for temporary work in a higher classification should be based on work that is temporary, not permanent, in nature. Temporary work is not a regular and recurring part of the employee's position. Such determinations are easy to support when documentation exists that links the work to extraordinary work situations such as leave, limited term work, or a special project of a limited duration.

(3) Grievances filed for alleged temporary work in a higher classification require a somewhat different review than those alleging a change in permanent duties and responsibilities. There are three basic differences:

(a) Timeliness can become an issue. Payment should be made only for the timely dates presented in the grievance. While the time limits may vary from agreement to agreement, as a general rule, the Commonwealth must include payment for out-of-class work in the employee's biweekly paycheck once the threshold has been met. If this does not occur, the employee has the right to grieve the nonpayment for a certain number of days subsequent to the Commonwealth's failure to include the payment in the employee's biweekly paycheck. Check the appropriate labor agreement for the exact number of days allowed for each union to file a grievance at the first step.

(b) There are contractual requirements for a minimum number of full or half days worked at the higher level classification before payment is required. Again, the labor agreements differ on the exact minimum. Check the relevant agreement before investigating grievances of this kind.

(c) The alleged higher level work must be separate and distinct from the employee's regular duties and responsibilities.

(4) There is normally a contractual requirement to perform, *in general*, the work of a position in a higher classification. The following steps for investigating temporary working out-of-class grievances at those steps where authority is vested to grant relief should be followed.

(a) Secure an overview of the grievant's regular duties and responsibilities and determine if their position is properly classified.

(b) Secure a description of the alleged out-of-class work and the dates and times the work was performed.

(c) Secure a description of the circumstances giving rise to the alleged out-of-class work in order to establish that the work is in fact temporary, not permanent.

(d) Analyze how the grievant's duties and responsibilities changed on the dates and times in question.

(e) Secure a description of the absent employee's or vacant position's duties and responsibilities (if applicable) and determine if that position is properly classified.

(f) Analyze how the grievant's alleged out-of-class work compares to the absent employee's or vacant position's work (if applicable).

(g) Analyze the work performed by the grievant on the dates and times in question against the appropriate job specifications.

(h) Issue a response to the grievance based on the information obtained and the analysis of same.

(5) A grievance involving the reclassification of a position is reviewed on the basis of the permanently assigned duties and responsibilities on the date the grievance was filed in writing.

(6) Because some agreements require the creation of a Job Evaluation Committee to address issues involving job specification content and the assignment of jobs to pay scale groups, such issues should not be addressed through the normal classification grievance procedure. Responses to such grievances should indicate that the remedy requested is not properly sought through the classification grievance procedure and must be referred to the Job Evaluation Committee (if applicable).

g. Agencies are advised to use settlements to resolve classification grievances with care. Settlements at the agency level should be used only to effect that which is specifically provided for in the labor agreement, such as the permanent reclassification of a position, or payment for temporarily working out-of-class. All settlements should be made without precedent or prejudice to the contractual rights of the Commonwealth and the union. No settlements should be offered at the agency level which would result in the reclassification of a position into a centralized class. Unusual situations should be discussed with the Classification Grievance unit in the Bureau of Classification, Compensation and Workplace Support, Office of Administration, before a settlement is offered to the union. Information copies of all proposed and agreed upon settlements should be forwarded to the Classification Grievance Unit in the Office of Administration.

h. The Classification Grievance Unit in the Bureau of Classification, Compensation and Workplace Support, Office of Administration, relies on Steps 1 through 3 to build a foundation for investigating and responding to classification grievances. Each step has a key role. If each step has met its responsibility, the collection, verification, analysis, and response phases should lead to sound classification determinations which can be explained and defended before arbitration panels.

This directive replaces, in its entirety, *Management Directive 590.8* dated November 7, 1996.