

MEMORANDUM

State of Alaska
Department of Administration
Division of Labor Relations

To: Mila Cosgrove
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Date: November 7, 2005

From: Art Chance
Director

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Subject: Acting in a Higher Range – General Government (GG – GP), Confidential (KK), Correctional Officers (CO), Supervisory (SS), and Public Safety (AA/AP) Units

This memorandum provides guidance on placing employees in acting status in a position in a higher range and supercedes all prior guidance on this subject regarding employees in these bargaining units. The essential factual predicate of acting status is that there be an authorized and vacant position for which the designated employee is acting. The position may be vacant because the incumbent has departed due to resignation, promotion, transfer, etc., or it may be vacant because the incumbent is on leave, suspension, or in travel status. Acting status **cannot** be used where the incumbent still occupies the position but is assigned to other duties, nor can it be used to assign higher-level duties to an employee where no position classified to perform those duties exists.

Following is the controlling contract language:
GG, KK Contract Language:

Any bargaining unit member (employee in KK) who has received prior written delegation from his/her division director or designee to perform essentially all of the duties of a specific position in a higher range than the bargaining unit's own for fifteen (15) or more consecutive calendar days shall, retroactive to the first (1st) day, be paid at the step of the higher range that would be appropriate in case of promotion.

Note: In the GG, bargaining unit member means non-permanent or permanent/probationary employee, employee refers only to permanent/probationary employees.

CO Contract Language:

An employee who has received prior written delegation from his/her division director or designee to perform essentially all of the duties of a specific position

in a higher pay range than the employee's own for more than fifteen (15) consecutive calendar days for employees on a forty (40) hour schedule or seven (7) consecutive regularly scheduled working days for employees on an eighty-four (84) hour schedule shall, retroactive to the first (1st) day, be paid at the step of the higher range that would be appropriate in case of promotion.

SS Contract Language:

Any employee assigned in writing by his or her supervisor the full duties of a specific position in a higher range than the employee's own for more than ten (10) consecutive working days will, retroactive to the first (1st) day, be paid at the step of the higher range that would be appropriate in case of promotion.

AA/AP Contract Language:

When a bargaining unit member receives a written assignment to perform many of the duties of a position in a higher pay range, the member will be paid for such time worked at the first step in that higher pay range that is above the member's current pay rate. If the assignment requires a member to perform the work of a position outside the bargaining unit, the member will remain a member of the bargaining unit and continue to have all the rights and obligations of a bargaining unit member, including the payment of dues and entitlement to health coverage.

All Units:

Accrued leave used or cashed out while in acting status shall be paid at the employee's regular rate of pay.

Procedures:

For all bargaining units covered by this memorandum, acting status must be designated in writing either by the division director or a supervisor, depending on the specific contract language. Only in the case of the Correctional Officers can this written delegation be made after the commencement of the duties of the higher range. In this case, the written delegation must be made within three (3) working days of the commencement of the duties of the higher range.

For the GG, KK, CO and SS units there is a durational period that must be met before acting pay may be applied. For the AA/AP units acting pay will apply immediately upon written authorization.

When paying an employee acting status, the overtime eligibility of the position in which acting becomes the overtime eligibility of the person acting in the position. If the position in which acting is not overtime eligible, no one has the authority to promise the acting employee overtime eligibility while in acting status. There may be extraordinary circumstances in law enforcement where an employee is assigned to act in a supervisory or managerial capacity but who must retain patrol or custodial duties that might effect overtime eligibility.

Conferring overtime eligibility in that circumstance must have this office's concurrence.

For the GG, KK, CO and SS units the pay will be calculated as though the acting employee has been promoted to the acting position. All rules governing promotion come into play. This rate will then be applied through a rate override. For AA/AP members, the pay will be at the first step in the higher range that is above the member's current pay rate, not the same as a promotion.

For example: If an overtime eligible GGU employee is acting in an overtime exempt SU position, the employee will not be overtime eligible while in acting status, will be paid by rate override as though promoted to the SU position and will stay a member of the General Government unit, pay GGU dues, and remain on GGU health insurance.

cc:

All Supervisors by email

All Division Directors by email

Division of Labor Relations Website