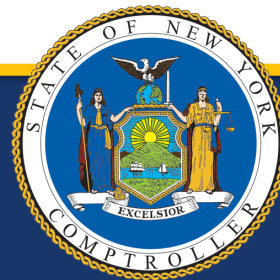


Office of Operations'
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Step Three Grievances (S3Gs)

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What is a Step 3 Grievance?

A Step 3 Grievance (S3G) is a monetary award by which an employee is compensated for the difference between their actual Grade/Position and for work performed Out-of-Title in a higher Grade/Position.



Initiating a Step 3 Grievance

- An employee must file a Grievance with their Union and the Office of Employee Relations (OER) that indicates they are working Out-of-Title and performing the work of a higher grade.
- OER and Civil Service issue 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 by OER and Civil Service with one of the following types of payment periods covered:

- A begin date and end date as indicated in the Grievance.

OR

- A begin date as indicated in the Grievance 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 first and second (if applicable) extension letters to the Director of OSC Bureau of State Payroll Services.

A third extension may be authorized by OER (for a non-specific timeframe).

If the employee is continuing to work Out-of-Title beyond the third extension, they must file a new Grievance.

- * Extension letters **must** be uploaded to NYSTEP prior to entry and approval in PayServ.
- * 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 Out-of-Title Salary

Step 1 – Determine the employee’s actual salary for the period covered in the Settlement.

- The employee’s actual salary used in the S3G calculation must be the one in effect on the payment dates of the Grievance. For example, if the Grievance dates are 4/1/2022 – 5/1/2022 and the employee had a raise on 6/1/2022, the salary in effect on the payment dates (4/1 – 5/1/22), which is prior to the raise, must be used in the calculation.
- If there is a change in salary during the payment dates of the Grievance, a separate calculation must be done for each change in salary. Following the above example, if the Grievance was extended to include 5/2/2022 – 7/1/2022, the calculation must be split between 5/2/2022 – 5/31/22 and 6/1/2022 – 7/1/2022.



Calculating the Out-of-Title Salary (cont'd)

Step 2 – Determine what the employee would be making if they were in the Out-of-Title position for the period of the Settlement.

- Ensure the appropriate Out-of-Title Position's Bargaining Unit Salary Chart for the respective fiscal year is used.
- Calculate the promotional salary by multiplying the employee's current salary (plus longevity bonus (LLS) if eligible for portability) by the appropriate promotional percent.
 - Portability: If a PEF employee has an LLS paid on or after 9/14/04 in the lower grade or a CSEA employee has an LLS paid on or after 4/01/20 in the lower grade, add the longevity payment to the annual salary and then promote to determine the new salary.
 - Promotional Percent: $1 \frac{1}{2} \%$ for the promotion itself, and $1 \frac{1}{2} \%$ for each grade level of the promotion. (Example: SG6 to SG9 = 6% ($1 \frac{1}{2}\% + 1 \frac{1}{2}\% + 1 \frac{1}{2}\% + 1 \frac{1}{2}\%$)).



Calculating the Out-of-Title Salary (cont'd)

- Determine if hiring rate of the Out-of-Title grade or the resulting promotional calculation should be used for the Out-of-Title salary.
 - If the resulting promotional calculation is less than the applicable hiring rate of the Out-of-Title position, use the applicable hiring rate. Otherwise, use the promotional salary calculated on the previous slide.
 - Note: Job Rate of the higher grade *can* be exceeded using the promotion method.



Calculation Example 1 – Using Promotion Calculation

Background

A PEF Gr 13 is working Out-of-Title as a PEF Gr 15. Their regular salary is \$50,000 effective 7/1/22. They do **not** earn LLS. The dates of the Grievance are 7/6/22 – 8/5/22.

Calculation

- \$50,000 Current Salary * 1.045 Promotion % = \$52,250
 - The PEF Gr 15 Hiring Rate in FY 22-23 is \$51,986. Use the above promotion calculation.
- Gr 15 Salary: \$52,250



Calculation Example 2 – Using Hiring Rate

Background

A PEF Gr 10 is working Out-of-Title as a PEF Gr 12. Their regular salary is \$38,606 effective 7/1/22. They do **not** earn LLS. The dates of the Grievance are 7/6/22 – 8/5/22.

Calculation

- \$38,606 Current Salary * 1.045 Promotion % = \$40,344
 - The PEF Gr 12 Hiring Rate in FY 22-23 is \$43,970. As the above promotion calculation is less than this, the applicable hiring rate must be used instead.
- Gr 12 Salary: \$43,970



Calculation Example 3 – LLS Portability

Background

A CSEA Gr 14 is working Out-of-Title as a CSEA Gr 17. Their regular salary is \$60,371 effective 8/1/22. They receive \$3,000 LLS effective 4/1/22, end dated 3/31/23. The dates of the Grievance are 10/1/22 – 11/1/22.

Calculation

- $\$60,371 \text{ Current Salary} + \$3,000 \text{ LLS} = \$63,371$
- $\$63,371 \text{ Gr 14 Salary} * 1.06 \text{ Promotion \%} = \$67,174$
 - The CSEA Gr 17 Hiring Rate in FY 22-23 is \$61,031. Use the above promotion calculation.
- Gr 17 Salary: \$67,174



Reminders

- If the bargaining unit of the Out-of-Title position has a different raise percentage than the bargaining unit of the employee's regular title in the fiscal year that the Grievance takes place, refer to [State Agencies Bulletin No. 702](#) for the appropriate calculation methodology.
- Always round up when calculating a promotion salary.



Calculation Example 4 – Adding Raise

Background

A CSEA Gr 18 is working Out-of-Title as a PEF Gr 20. Their regular salary is \$70,000 effective 4/30/21. They do **not** earn LLS. The dates of the Grievance are 5/1/21 – 6/1/21.

Calculation

NOTE: At the time, CSEA did not have an approved FY 21–22 salary chart. As the effective dates of the Grievance occur in FY 21-22, the FY 21-22 PEF 2% raise must be **added** to the employee's regular salary after the promotion calculation per State Agencies Bulletin No. 702.

- \$70,000 Current Salary * 1.045 Promotion % = \$73,150
- \$73,150 Gr 20 Salary * 1.02 PEF Raise = \$74,613
 - The PEF Gr 20 Hiring Rate in FY 21-22 is \$66,566. Use the above promotion calculation.
- Gr 20 Salary: \$74,613



Calculation Example 5 – Removing Raise

Background

A PEF Gr 21 is working Out-of-Title as a M/C Gr 22. Their regular salary is \$70,094 effective 10/1/21. They do **not** earn LLS. The dates of the Grievance are 11/1/21 – 12/1/21.

Calculation

NOTE: At the time, M/C did not have an approved FY 21–22 salary chart. As the effective dates of the Grievance occur in FY 21-22, the FY 21-22 PEF 2% raise must be **removed** from the employee's regular salary prior to the promotion calculation per State Agencies Bulletin No. 702.

- \$70,094 Current Salary / 1.02 PEF Raise = \$68,720 Gr 21 Salary
- \$68,720 Gr 21 Salary * 1.03 Promotion % = \$70,782
 - The M/C Gr 22 Hiring Rate in FY 20-21 is \$72,605. Use hiring rate.
- Gr 22 Salary: \$72,605



Reminders (cont'd)

- In all cases, an employee who previously held a higher grade must have their salary history reviewed in order to determine if reinstatement and salary reconstruction based on the former higher grade will result in a higher salary than the current promotion calculation.
 - Reconstruction should include credit for the higher grade, any performance advances earned and not paid, and any raises missed. This salary should be compared to the current resultant promotion calculation.



Overtime

- As the agency is aware of what duties were being performed during the overtime period, it is at the agency's discretion whether to adjust overtime to account for Out-of-Title work.
- If it is determined the overtime was performed in the Out-of-Title position, the calculation methodology on the next slide should be applied.



Overtime Calculation

- The overtime rate should always be calculated as the difference between the OT rate the employee receives in their current title and the OT rate they would receive if actually promoted into the Grievance title.
 - This amount should be included with the S3G payment in Time Entry and should not be paid via a separate earnings code.
- As determined by the NYS Division of the Budget, when calculating Out-of-Title overtime, the OT factor used for both the regular title and the Out-of-Title position should be based on the employee's regular title. For example, if an employee is a CSEA Gr 11 working Out-of-Title as an M/C Gr 18, the calculation should use the CSEA OT factor (which is currently at .00072) for both titles.



Overtime Calculation (cont'd)

- If the employee is receiving LLS on the payment dates of the Grievance, regardless of portability, they should receive it in the calculation of their regular title's overtime rate.
- If an employee is receiving LLS in their current title, the employee is eligible for LLS portability and the resulting promotional salary is equal to or greater than the job rate of the Out-of-Title position, the original LLS amount should be included in the calculation of overtime in the employee's Grievance title.
 - If the resulting salary is less than the Out-of-Title job rate or the employee is ineligible for portability, do not include the LLS.



Overtime Example 1 – Difference In BU

- A CSEA Gr 15 working Out-of-Title as a M/C Gr 16. They are receiving an LLS of \$4,500 which was included in their promotional calculation. The resulting salary is \$74,953 which is higher than the M/C Gr 16 Job Rate. The employee's Grievance overtime rate would be calculated as:

CSEA Gr 15 OT:

$$\$68,269 + \$4,500 \text{ LLS} = \$72,769 * .00072 = \$52.39/\text{hr}$$

M/C Gr 16 OT:

$$\$74,953 + \$4,500 \text{ LLS} = \$79,453 * .00072 = \$57.21/\text{hr}$$

Difference: $\$57.21 - \$52.39 = \$4.82$ owed per hour.

Notes:

- Even though the Out-of-Title position is M/C, the CSEA OT factor was used for both titles.
- The methodology of when to include LLS in the Out-of-Title position is the same regardless of what bargaining unit the employee is performing the Out-of-Title work in.



Overtime Example 2 – LLS

- A CSEA Gr 18 working Out-of-Title as a CSEA Gr 20. They are receiving an LLS of \$3,000 which was included in their promotional calculation. The resulting salary is \$86,995 which is *less* than the CSEA Gr 20 Job Rate. The employee's Grievance overtime rate would be calculated as:

CSEA Gr 18 OT:

$$\$80,248 + \$3,000 \text{ LLS} = \$83,248 * .00072 = \$59.94/\text{hr}$$

CSEA Gr 20 OT:

$$\$86,995 * .00072 = \$62.64/\text{hr}$$

Difference: $\$62.64 - \$59.94 = \$2.70$ owed per hour.



Additional Codes Included In S3G

- As the agency is aware of what duties were being performed during the overtime/holiday period, it is at the agency's discretion whether to adjust OTB (OT Straight Rate for Annuals), HPA (Holiday Pay) and HPB (Holiday Pay 1.5) to reflect Out-of-Title work
- If it is determined the OTB, HPA or HPB were performed in the Out-of-Title position, the calculation methodology on the next slide should be applied.



Additional Codes Included In S3G (cont'd)

- To calculate the hourly HPA, HPB or OTB rates, multiply the annual difference in salaries by the respective factors:
 - OTB: 0.000479450 (Non-Leap Year), 0.000478137 (Leap Year)
 - HPA: 0.000479450 (Non-Leap Year), 0.000478137 (Leap Year)
 - HPB: 0.000719175 (Non-Leap Year), 0.000717206 (Leap Year)
- Note: LLS is **not** a factor in the above codes and **should not** be included in the calculation of OTB, HPA and HPB.
- The above codes are calculated **Per Hour**. For example, 1 day of OTB equates to 8 hours of pay.



Calculating the Final S3G Amount

Once all final salary, overtime (if applicable), and holiday (if applicable) calculations are completed, the bi-weekly S3G payment can be calculated as follows:

1. Subtract the salary of the lower grade from the newly calculated higher graded salary.
2. Multiply the difference in salaries by the appropriate factor (.038356 Non-Leap Year or .038251 Leap Year) to determine the difference in the bi-weekly amounts.
3. Multiply the bi-weekly difference by the number of pay periods to be paid. (Example: To pay an employee 8 pay periods and 4 days, multiply the bi-weekly difference by 8.4 to determine the total owed for that timeframe).
4. Repeat steps 1-3 each time there is a salary change on the employee's record and at the beginning of each fiscal year if the approved Grievance spans multiple fiscal years.



Calculating Bi-weekly S3G Payment Example

Background

As calculated previously, a PEF Gr 21 is working Out-of-Title as a M/C Gr 22. Their regular salary is \$70,094 effective 10/1/22. The Out-of-Title salary calculated was \$72,605. The dates of the Grievance are 11/1/22 – 12/1/22.

Calculation

1. $\$72,605 \text{ Gr 22 Salary} - \$70,094 \text{ Gr 21 Salary} = \$2,511 \text{ Annual Difference}$
2. $\$2,511 * .038356 \text{ Non-Leap Year Bi-Weekly Factor} = 96.31/\text{Pay Period}$
3. $11/1/22 - 12/1/22 = 2.3 \text{ Pay Periods. } \$96.31 * 2.3 \text{ PPs} = \$221.51 \text{ S3G Payment Amount}$



Entering the S3G Into PAYSERV

Once all applicable documentation has been uploaded in NYSTEP and the calculation has been completed, the S3G can be entered into PayServ.

Exception: Agencies must send the documentation for employees in M/C titles to their OSC auditor, this will **not** appear in NYSTEP.

The information on the next two slides should be entered to ensure proper payment of the S3G.



Entering The S3G – General Comment

- General Comments indicating:
 - The employee’s regular grade during the Grievance period.
 - What grade and bargaining unit OER determined the employee was working Out-of-Title during the timeframe noted.
 - The dates of payment for the Grievance, including any extension information.
 - The Grievance calculation (As explained in the previous slides).
 - Overtime and Holiday Pay information (If applicable):
 - The overtime/holiday calculations of the Out-of-Title position and regular position.
 - The difference between both overtime/holiday rates.
 - The total amount of overtime/holiday hours to be paid (if any) at the higher rate.



Entering The S3G – Time Entry

- Time Entry Payment
 - Earnings Begin and Earnings End Date
 - This should be the applicable begin and end date of the approved Grievance being paid.
 - As previously mentioned, these dates should be split accordingly based on changes in the employee’s regular salary or changes in fiscal year.
 - Earnings Code S3G
 - S3G Amount Owed (Bi-Weekly S3G Amount + Out-of-Title Overtime Adjustment + Out-of-Title Holiday Pay Adjustment)



OSC Agrees with Calculation

- If the OSC auditor agrees with the agency's calculations in General Comments, they will approve the S3G in Time Entry.
- OSC will also create additional General Comments to support the agreed upon calculation. This comment will include:
 - An indication that the necessary documentation is on file in NYSTEP (or the S3G Folder if employee is M/C) for the approved dates of the Grievance.
 - The approved dates of the Grievance as well as any extension information as applicable.
 - The bi-weekly and overtime/holiday (if applicable) rate(s) that OSC calculated and agrees with.



OSC Disagrees with Calculation

- If the OSC auditor does NOT agree with the agency's calculations, or the necessary information is not entered in general comments, they will contact the agency to discuss the disagreement.
 - The agency will be instructed to either resubmit the S3G transaction in the current pay period or enter in a future pay period.
- Once the agency and OSC agree as to how the S3G should be paid, the steps on the previous slide will be followed.



Questions?

Questions on this presentation or a salary calculation can be submitted to:

payrollearnings@osc.ny.gov



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