

DEPARTMENT OF EMPLOYMENT RELATIONS BULLETIN

Division of Personnel

Date August 31, 1981

Subject

Corrective Action when Salary
Mispayments are Discovered

Number F-103

Although appointing authorities and the Department of Administration perform major roles in assuring that employes are paid in accordance with the law, pay plan and rules, the State Division of Personnel, as the agency with statutory responsibility for administering the pay plan, has authority to direct corrections of payments made contrary to the law, pay plan or the rules. Relevant statutory references are as follows:

1. Section 16.415(1) requires appointing authorities to certify that employes are being paid according to the law, the compensation plan and rules before the Department of Administration or other fiscal officer may authorize payment.
2. Section 16.415(2) states that "any sums paid contrary to this section may be recovered from any appointing authority making such appointments in contravention of law or rules made pursuant thereto."
3. Section 230.41 contains wording similar in effect to s. 16.415(2).
4. The last sentence of s. 230.12(1)(a) indicates that provisions for administration of the pay plan and pay transactions shall be provided in the rules of the administrator or the compensation plan.
5. Section 230.12(4)(a) indicates that "When an approved compensation plan or an amendment thereto becomes effective, required individual pay adjustments shall be made in accordance with determinations made by the administrator to implement the approved plan."
6. Section 230.08(8) requires the administrator to audit the payrolls as necessary to carry out subchapter 2 of Chapter 230.
7. Section 230.05(4) gives the administrator the authority to issue enforceable orders on all matters relating to the administration, enforcement and effect of subchapter II of Chapter 230 and the rules prescribed thereunder. All such orders are appealable to the Personnel Commission.

Whenever a discovery is made that an employe has been paid contrary to the law, pay plan or the rules, Dave Riehle, Director, Bureau of Classification, Compensation and Surveys, State Division of Personnel, should be notified by the person who discovers the mispayment.


An analysis of the mispayment will then be made by the Division of Personnel. If the mispayment was an overpayment, an investigation will be conducted to obtain information necessary to decide:

1. What is the amount of the overpayment?
2. Who authorized the overpayment?
3. How and by whom was the overpaid employe notified of the pay rate?
4. Does it appear that the employe had reason to believe that the overpayment was the proper payment?
5. What detriment to the employe was created when the employe relied on information supplied to him or her about the pay rate? (What would the employe lose when the overpayment is corrected compared to what the status of the employe would be had the overpayment offer not been made?)

Based on information obtained through the investigation, decisions will be made regarding:

1. Who, if anyone, should be required to repay any overpayments?
2. If repayment is required, what should be the repayment schedule?
3. Should the employe be allowed to retain the overpayment rate with or without conditions attached, such as until promoted, transferred, etc.?

The decisions will be conveyed to all affected parties. If necessary, enforceable orders will be issued. Any such order may be appealed to the Personnel Commission by any of the affected parties.


CHUCK GRAPENTINE, ADMINISTRATOR
STATE DIVISION OF PERSONNEL