State of Wisconsin

DEPARTMENT OF EMPLOYMENT RELATIONS BULLETIN

Division of Personnel

Date March 30, 1982

Subject General Principles to Follow in Correcting Salary Overpayments

Number P-131

The typical salary overpayment occurs due to an error in administering a pay plan provision or a rule related to a transaction pay adjustment.

Since Bulletin P-103 titled "Corrective Action When Salary Mispayments Are Discovered" was published on August 31, 1981, the Division of Personnel has adopted the following principles relating to correcting salary overpayments. These principles are based on the statutes and court decisions on this subject.

When an employe accepts an overpayment without creating a financial detriment to himself or herself, the pay rate must be corrected and the employe will be required to make repayment of any overpayments. If an employe did not make an employment decision financially adverse to himself or herself in reliance on the higher rate of pay, such as the employe did not give up a higher salaried position for a lesser salaried position, we will consider that the overpayment did not create a financial detriment to the employe. In such cases, after the pay rate is corrected and any overpayments collected, the employe will be in the same financial place he or she would have been had the error in pay never existed. The employing agency will be expected to develop a reasonable repayment schedule.

The only instances where pay rate corrections or overpayment collections may not be required are where the principles of equitable estoppel apply. For the principles of equitable estoppel to apply, the employe must show that the overpayment error induced a reasonable reliance by the employe to take an action or fail to take an action to the employe's financial detriment. Even in cases where a financial detriment to the employe can be shown, a determination must be made relative to the period of time the excessive pay rate may remain in effect.

Chuck Grapentine

CHUCK GRAPENTINE, ADMINISTRATOR
DIVISION OF PERSONNEL