

**CLASSIFICATION** 1010  
(September 1988)

**OUT-OF-CLASS WORK** 1011  
(September 1988)

**CRITERIA** 1011.1  
(September 1988)

An employee is working in a higher classification only when he/she is performing the full range of duties of a higher class regularly and consistently and the position meets all of the classification allocation guidelines established by the Department of Personnel Administration (DPA). The standards for determining the full range of duties are:

- The kind and variety of duties performed; and,
- The relative time which the employee will spend/has spent performing the duties of a higher classification.

The "full range of duties" requires that the tasks performed for the majority of the employee's time are outside his/her classification and are encompassed in another classification.

An employee is not considered to be working out-of-class if he/she meets any one of the criteria below.

- The out-of-class duties were not assigned and the employee voluntarily requested the work or assumed the duties. (Note: Unlike other employees, Unit 8 staff are compensated for voluntary out-of-class work. However, they may not unilaterally assume out-of-class assignments without the knowledge or approval of their supervisors.)
- The employee is not performing the full range of duties described in the class specification. If an employee is performing the duties of his/her classification the majority of the time, he/she is not considered to be working out of class. This is true even when those duties substantially overlap those of another class at the same or higher level.
- The employee is performing the prescribed duties while on a Training and Development assignment, in an apprenticeship or other training classification, or is performing duties different from regular duties due to an injury, an illness, or participation in a return-to-work program.

- DPA approves a change in allocation standards and an employee claims that he/she was working in a higher classification before the effective date of the change.
- The State Personnel Board establishes a new class which describes duties that were previously properly allocated to another class and the employee claims that he/she was working at the higher level before establishment of the new claims.
- The claim is based on an alleged accelerated movement in a deep class series (e.g., Staff Services Analyst, Ranges A, B and C) or from the trainee to/through the journey level of a series.

## **AVOIDING OUT-OF-CLASS WORK**

**1011.2**

(September 1988)

It is the department's policy to avoid out-of-class assignments which are not critical to the mission of the department or when work needs can be met in another manner. Temporary staffing needs of more than 120 days should normally be accommodated through civil service or administrative alternatives other than out-of-class work.

Alternatives include:

- Limited-term appointments for up to two years from the appropriate civil service employment lists;
- Reassignment of personnel or a temporary reorganization to meet the needs of the department without requiring an individual to exceed the 120-day limit on out-of-class work; or,
- Establishment of new classifications or revising existing classifications to address recurring needs.

## **AUTHORIZATION FOR OUT-OF-CLASS WORK/PAY**

**1011.3**

(September 1988)

Supervisors are not to independently authorize out-of-class work. Because an out-of-class assignment must be evaluated in the same manner as a position reallocation request, a PO-200, a duty statement, a justification, and an organization chart must be submitted to Personnel Services in Sacramento. It is to be reviewed and routed in the same manner as other PO-200 requests sent to Headquarters.

Regions are not to initiate any payment for out-of-class work without first (1) having secured necessary approvals through the PO-200 process; or, (2) receiving instructions from Personnel Services resulting from approval of an out-of-class claim filed by an employee after the fact.

**ASSIGNMENT AND PAY FOR OUT-OF-CLASS WORK** 1011.4  
(September 1988)

**UNIT 8 EMPLOYEES** 1011.4.1  
(September 1988)

No Unit 8 employee can be involuntarily assigned to work out-of-class.

If the department requires, in writing, that an employee work in a higher classification for more than 30 consecutive days (and the employee consents), the employee shall receive a pay differential of 5 percent over his/her normal daily rate of the class to which he/she is appointed for that period in excess of 30 days.

If the department head or designee requires, in writing, that an employee work in a higher classification (and the employee consents) for 60 consecutive calendar days or more, the employee shall receive a pay differential of 5 percent over his/her normal daily rate of the class to which he/she is appointed from the first day of the assignment.

If the assignment to a higher classification is not terminated before it exceeds 120 consecutive calendar days, the employee shall be entitled to receive the difference between his/her salary and the salary of the higher class (at the same step the employee would receive if he/she were to be promoted to the class) for that period in excess of 120 consecutive days.

No Unit 8 employee will be assigned to out-of-class work for more than one year.

Once approved by the methods described in Section 1011.6, pay will be processed by the unit personnel assistant. It will be done in accordance with the Payroll Procedures Manual (Section G) to the extent that it does not conflict with the provisions of the MOU. Where there is a conflict, the MOU shall prevail.

The differential shall not be considered as part of the base pay in computing the promotional step in the higher class.

**OTHER RANK-AND-FILE EMPLOYEES** 1011.4.2  
(September 1988)

Before an out-of-class assignment is made or approved by departmental supervisors, the supervisor must review the collective bargaining agreement. The agreements may contain varying requirements and amounts of pay.

Once approved by the methods described in Section 1011.6, the unit personnel assistant will process pay. It will be done in accordance with the Payroll Procedures Manual (Section G) to the extent that it does not conflict with the provisions of the MOU. Where there is a conflict, the MOU shall prevail.

Where the MOU is silent on the subject of out-of-class pay, the employee shall be entitled to receive the difference between his/her salary and the salary of the higher class at the same step the employee would receive if he/she were promoted to the class.

**NONREPRESENTED EMPLOYEES** **1011.4.3**  
(September 1988)

Out-of-class assignments must be made in writing.

Once approved through the methods described in Section 1011.6, pay will be processed by the unit personnel assistant in accordance with the Payroll Procedures Manual (Section G). The employee shall be entitled to receive the difference between his/her salary and the salary of the higher class at the same step the employee would receive if he/she were promoted to the class.

**OUT-OF-CLASS COMPLAINTS** **1011.5**  
(September 1988)

**UNIT 8 EMPLOYEES** **1011.5.1**  
(September 1988)

If a Unit 8 employee believes that he/she is working out-of-class in a manner which violates the out-of-class pay section of the MOU, he/she may file a complaint.

Out-of-class claims will be filed through the complaint procedure described by Section 7.01 of the collective bargaining agreement. The claim is to be filed on the Employee Contract Grievance form, STD 630 (type the word "COMPLAINT" at the top of the STD 630), within the time limits prescribed by the MOU.

If it is determined that the employee is working out-of-class as described in Section 1011.6, the employee shall be compensated for the out-of-class period as specified in Section 17.05 of the MOU.

Once the complaint procedure within the department has been exhausted, the employee or his/her representative may, within 30 days, forward the matter to the Department of Personnel Administration for a review hearing by its staff over the classification aspects of the complaint.

If the Department of Personnel Administration determines that the employee is working out-of-class and CDFEA believes that the MOU provisions have not been properly applied, it may forward only the salary issue to arbitration. The question of whether out-of-class work was performed may not be arbitrated.

## **OTHER RANK-AND-FILE EMPLOYEES**

**1011.5.2**

(September 1988)

If an employee believes that he/she is working out-of-class in conflict with departmental policy or his/her collective bargaining agreement, he/she may file a complaint on an Employee Contract Grievance form, STD 630 (type the word "COMPLAINT" at the top of the STD 630). The complaint must be filed in accordance with the procedures and time limits prescribed by the MOU. If it is determined that the employee is working out-of-class and out-of-class compensation is approved through the process described in Section 1011.6, the unit personnel assistant will request pay.

## **NONREPRESENTED EMPLOYEES**

**1011.5.3**

(September 1988)

Nonrepresented employees who believe they are inappropriately working out of class may file a claim following the excluded employee complaint procedure. An Excluded Employee Complaint form, STD 631, should be filed no later than 30 days after the date of the last occurrence of working out of class.

If it is determined that the employee is working out-of-class and out-of-class compensation is approved through the process described in Section 1011.6, pay will be requested by the unit personnel assistant.

## **PROCESSING OUT-OF-CLASS PAYMENTS**

**1011.6**

(September 1988)

Unit/region personnel clerks may only process out-of-class pay after receiving approval by Personnel Services in Sacramento. Personnel Services' review is initiated by a PO-200 before the assignment of out-of-class work occurs, or as a result of an employee complaint during or after the fact.

Personnel Services must secure the approval of DPA under certain circumstances. They include the following:

- Out-of-class work not assigned in writing for Units 1, 3, 4, 6, 7, 8, 11, 12, 14, 15, 17, 18, and 20.
- All out-of-class claims for Units 2, 5, 9, 16, and 19.

- All out-of-class claims for nonrepresented employees.

When an out-of-class claim is supported by Personnel Services, DPA requires that the department certify the classification appropriate for the out-of-class work and the time period for which payment is authorized. The breakdown of the calculation will be reviewed for completeness and accuracy and attached to the required forms. The personnel services analyst will return the completed forms and attachments to DPA.

When the MOU is silent on the subject of pay, payments are calculated upon the basis of a hypothetical promotion to the higher class less what the employee actually earned for the same period of time. The difference between the two gross amounts represents the amount of the claim. General salary increases and merit salary adjustments are included and forwarded to the personnel services analyst (reference Section 1011.4).

The Budget Office identifies the funding source for the claim and obtains the signature of the Deputy Director for Management Services to certify availability of funds. The Department of Finance must confirm the availability of funds.

Claims paid under the out-of-class claim process are considered awards and are neither subject to withholding and deductions nor credited as compensation for retirement or other benefit purposes.

Under Government Code Section 19818.16, pay cannot be for more than one year preceding the date of filing a complaint.

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