This directive establishes policy, responsibilities, and procedures for the administration of classification grievances. This amendment includes definitions, outlines policy, and responsibilities. Marginal dots are excluded due to major changes.

1. PURPOSE. To establish policy, responsibilities, procedures, and identify the information that must be gathered, verified, and evaluated at each step of the classification grievance process, and to identify the purpose and role of each step in the processing of classification grievances.

2. SCOPE. This directive applies to all departments, boards, commissions, and councils (hereinafter referred to as “agencies”) under the Governor's jurisdiction.

3. OBJECTIVE. To ensure that commonwealth classification grievance processing is administered consistently and in accordance with established requirements.

4. DEFINITIONS.

   a. Arbitration. Quasi-judicial proceedings overseen by a neutral arbitrator and initiated by an employee organization when a classification grievance is not satisfactorily resolved at previous steps of the applicable grievance procedure. Proceedings result in a final decision regarding the outcome of a grievance.

   b. Centralized Job. A job that requires classification approval by the OA, Bureau of Classification and Compensation, Classification and Pay Division. Classification approval is required when agencies want to create, transfer, or reclassify a position in or to a centralized job.
c. **Classification Grievance.** A dispute arising from classification provisions of a collective bargaining agreement or memorandum of understanding and involving the appropriate job classification of an employee’s permanent or temporary duties and responsibilities.

d. **Employee Organization.** A union or representative of employees that is certified by the Pennsylvania Labor Relations Board to act as an exclusive representative for purposes of collective bargaining, meet and discuss, and contract interpretation issues, including classification grievance proceedings, for commonwealth employees in designated bargaining units.

5. **POLICY.**

   a. Commonwealth Human Resource Analysts involved in classification grievance administration are responsible for the investigation of and response to all grievances submitted to their level. Accomplishing this objective requires the thorough and timely collection of relevant data through a desk audit with the employee and discussions with the employee’s supervisor, and the analysis of such data to determine if a grievance should be sustained, denied, or otherwise resolved. Competent investigation, effective communication, and objective analysis serve to preclude the further processing of many grievances. Attempts should be made to resolve grievances at the lowest level possible consistent with the collective bargaining agreement or memorandum of understanding. Resolution of grievances must be acceptable to both the employer and employee organization. In the event a grievance is pursued by an employee or an employee organization, the information and documentation gathered is to be retained and made available to the succeeding steps of the grievance procedure in a timely manner.

6. **RESPONSIBILITIES.**

   a. **Managers and Supervisors** are responsible for assigning duties and responsibilities to positions consistent with job specifications, reviewing and verifying the accuracy of position and organization information, documenting information in dispute, and responding to requests for information from their agency Human Resources Office and the Bureau of Classification and Compensation during any step of the classification grievance procedure.

   b. **Agency Human Resources Offices** are responsible for serving as the designees to heads of agencies when processing classification grievances, ensuring that position and organization information is current, accurate and complete; conducting fair, thorough, technically competent, and timely reviews of all classification grievances; preparing technical evaluations that contain thorough analysis and application of appropriate classification standards with corresponding recommendation, conclusion and response; and maintaining and forwarding upon request all relevant grievance documentation to the Bureau of Classification and Compensation.
c. Office of Administration, Office for Human Resources Management, Bureau of Classification and Compensation is responsible for conducting reviews of all classification grievances beyond the first step, or above the agency level, of the applicable classification grievance procedure, and providing training and procedural guidance on conducting classification grievance hearings, analysis and response.

7. PROCEDURES.

a. The number of steps in classification grievance procedures varies by collective bargaining agreement or memorandum of understanding, with some agreements having no provision for processing classification grievances. Refer to the involved collective bargaining agreement or memorandum of understanding for specific information on classification grievance procedures. The below procedures coincide with the Expedited Grievance Procedure in the American Federation of State, County and Municipal Employees (AFSCME) Master Agreement. However, first-level supervisory employees covered by a memorandum of understanding do not have arbitration rights for classification matters, and therefore, have only two steps in their classification grievance procedure.

(1) Step 1. The first step is the only step at which an agency can review a classification grievance. Therefore, it is important that the accuracy of all grievance information be verified, that a technical review of the work occur, and that every effort be made to resolve the grievance. All grievances must be answered by the agency based on accurate and verified information at Step 1. If the job classification being sought is a centralized job, all phases described below should be completed except that the response should not indicate a technical decision or recommendation. The response should state only that the agency does not have classification authority to resolve the grievance.

(a) The classification analyst at the agency should complete the review and documentation process in the following manner at Step 1:

1. A grievance involving the reclassification of a position is reviewed on the basis of the permanently assigned duties and responsibilities on the date the grievance was filed in writing.

2. The agency analyst should verify the submission of all position and organizational information, and any additional information relating to the duties and responsibilities assigned either permanently or temporarily to the grievant’s position, and request any information missing from the grievance package from the union.

3. If the investigation of a classification grievance is expected to extend beyond the collective bargaining agreement time limit for a Step 1 response, the union must be asked to grant an extension of time to allow for proper investigation and analysis.

4. To facilitate the investigation of the grievance, it is recommended that a desk audit involving the grievant and union representative (if applicable) be conducted on the grievant’s position.
As a result of the desk audit, and/or follow-up discussions with the supervisor and/or other management personnel, the classification analyst should document the agreed upon duties and responsibilities and note any duties that remain in dispute. Information concerning the duties and responsibilities should come from those individuals with firsthand knowledge of the grievant's work.

The classification analyst should review previous arbitrations for the history of decisions related to appropriate jobs and historical allocation criteria using the password accessible Classification Arbitration Search, http://www.jobclass.state.pa.us/Arbitration/Arbs_Search/Login.asp. Agency classification analysts are also encouraged to consult with the Office of Administration, Office for Human Resources Management, Bureau of Classification and Compensation, Classification and Pay Division, Classification Grievance Unit (hereinafter referred to as “Classification Grievance Unit”), when needed.

The classification analyst should prepare a technical evaluation and recommendation on the appropriate job for the duties and responsibilities assigned to the grievant’s position, either permanently or temporarily. If the appropriate job sought is decentralized, the agency should issue a response to the union in writing on the technical merits of the grievance. If the appropriate job sought is a centralized job, the response should state only that the agency does not have classification authority to resolve the grievance.

The agency Human Resources Office should maintain a complete file of all classification grievance material that has been compiled. Such material should include an agreed upon position description or an agreed upon statement of alleged temporary higher level duties and responsibilities, a technical evaluation, an organization chart, any statements by the supervisor or manager concerning problems with the employee-prepared position description or list of alleged temporary higher level duties and responsibilities, and any other relevant documentation. Upon request, this material is to be provided to the Classification Grievance Unit.

(2) **Step 2.** Second step submissions of classification grievances are investigated and answered by the Classification Grievance Unit. This is typically the final step before a grievance may be brought before an arbitrator. However, the second step decision is final and binding for grievances filed on behalf of employees covered by a memorandum of understanding.

(a) The analyst in the Classification Grievance Unit should complete the review and documentation process in the following manner at Step 2:
1. Request all relevant classification grievance material from the agency and any information missing from the grievance package from the union.

2. Based on the agency’s classification grievance material and the information contained in the grievance package, the reviewing analyst determines the appropriate method of investigation, e.g., grievance hearing, discussion with the grievant’s supervisor, and/or discussion with the reviewing analyst(s) at the previous step.

3. As a result of the information collected and analyzed, a second step response to the grievance is issued in writing to the union. The affected agency Human Resources Office is copied on the response. Any decision not in accordance with a first step response will be made in consultation with the agency.

(3) Step 3. This is the final step in the classification grievance procedure, and it involves either advisory or binding arbitration, depending on the nature of the classification issue and the collective bargaining agreement.

(a) The Step 3 procedures are as follows:

1. The union indicates its intent to arbitrate the grievance by notifying the Classification Grievance Unit, in writing.

2. The union and the Classification Grievance Unit select an arbitrator from a panel of classification arbitrators that have been jointly selected by the parties or by striking from a list of arbitrators provided by the Bureau of Mediation, Department of Labor and Industry, or the American Arbitration Association for PSCOA grievances.

3. With the assistance of the agency Human Resources Office, management, and supervisor(s), the Classification Grievance Unit prepares its case for arbitration and advocates the commonwealth’s position.

4. The Classification Grievance Unit officially transmits the arbitration award upon receipt to the affected agency Human Resources Office. If the grievance is sustained, direction will be provided to the affected agency Human Resources Office on how to implement the award.

b. The following suggestions may help to effectively investigate and complete the data gathering and analysis processes at Steps 1 and 2 of the classification grievance procedure for grievances related to Temporary Assignments in a Higher Classification:

(1) Grievances alleging temporary work in a higher classification require a somewhat different review than those alleging a change in permanent duties and responsibilities. When reviewing such grievances, the following three basic differences must be considered:
(a) Timeliness: Payment should be made only for the timely dates presented in the grievance. While the time limits may vary from agreement to agreement, as a general rule, the commonwealth must include payment for out-of-classification work in the employee’s biweekly paycheck once the threshold time requirement, as defined in the appropriate collective bargaining agreement or memorandum of understanding, has been met. If this does not occur, the employee has the right to grieve the nonpayment for a certain number of days subsequent to the commonwealth’s failure to include the payment in the employee’s biweekly paycheck. Refer to the appropriate collective bargaining agreement or memorandum of understanding for the exact number of days allowed for each union to file a grievance at the first step.

(b) There are contractual requirements for a minimum number of full or half days worked at the higher level classification before payment is required. The collective bargaining agreements and memoranda of understanding differ on the exact minimum. Refer to the relevant agreement before investigating grievances of this kind.

(c) The alleged higher level work must be separate and distinct from the employee’s regular duties and responsibilities. Determinations to compensate an employee for temporary work in a higher classification should be based on work that is temporary, not permanent, in nature. Temporary work is not a regular and recurring part of the employee’s position. Such determinations are easy to support when documentation exists that links the work to extraordinary work situations such as leave, limited term work, or a special project of a limited duration.

(2) The following steps for investigating temporary working out-of-classification grievances should be followed.

(a) Secure an overview of the grievant’s regular duties and responsibilities and determine if their position is properly classified.

(b) Secure a description of the alleged out-of-classification work and the dates and times the work was performed.

(c) Secure a description of the circumstances giving rise to the alleged out-of-classification work in order to establish that the work is in fact temporary, not permanent.

(d) Analyze how the grievant’s duties and responsibilities changed on the dates and times in question.

(e) Secure a description of the absent employee’s or vacant position’s duties and responsibilities (if applicable) and determine if that position is properly classified.

(f) Analyze how the grievant’s alleged out-of-classification work compares to the absent employee’s or vacant position’s work (if applicable).
(g) Analyze the work performed by the grievant on the dates and times in question against the appropriate job specifications.

(h) Issue a response to the grievance based on the information obtained and the analysis of same.

c. Allegations concerning the content of job specifications or the assignment of jobs to certain pay scale groups are not addressed through the normal classification grievance procedure. Responses to such grievances should indicate that the remedy requested is not properly sought through the classification grievance procedure.

d. Agencies are advised to use caution when settling classification grievances. Generally, settlements at the agency level should be consistent with the collective bargaining agreement, such as the permanent reclassification of a position or payment for temporarily working out-of-classification. The provision of extra-contractual remedies or remedies inconsistent with or contrary to collective bargaining agreements or memoranda of understanding shall be discussed with and approved by the Classification Grievance Unit before a settlement is offered to the union. All settlements shall be made without precedent or prejudice to the contractual rights of the commonwealth and the union unless permission is otherwise granted by the Classification Grievance Unit. No settlements shall be offered at the agency level that would result in the reclassification of a position to a centralized job. Informational copies of all proposed and agreed upon settlements shall be forwarded to the Classification Grievance Unit.

e. Step 1 of the grievance procedure is extremely important in the classification grievance process. The Classification Grievance Unit relies on Step 1 to build a foundation for investigating and responding to classification grievances. If the responsibility of this step has been met through the collection, verification, analysis, and response phases, the result should be sound classification determinations that can be explained and defended before arbitration panels.

This directive replaces, in its entirety, Management Directive 590.8, dated March 30, 2006.