State of Wisconsin

OFFICE OF STATE EMPLOYMENT RELATIONS

- COMPENSATION AND LABOR RELATIONS BULLETIN -
- MERIT RECRUITMENT AND SELECTION BULLETIN -

Date:	August 29, 2006	**Subject:**	Contractual Interpretation and Clarification of Policies Regarding 2005-07 WSEU Administrative Support Unit Survey A/B Classifications
Locator No:	OSER-0081-CLR/LR-MRS **Amendment**		

I. Introduction

Agencies have raised a number of questions pertaining to the Administrative Support Unit (ASU) Survey A/B classifications. This bulletin provides contractual interpretation and policy guidance on a number of labor relations, compensation, classification and staffing topics pertaining to the ASU Survey classifications.

The Joint Committee on Employment Relations version of the 2003-2005 Wisconsin State Employees Union (WSEU) collective bargaining agreement for the Administrative Support (AS), Blue Collar (BC), Security and Public Safety (SPS), and Technical bargaining units is posted on the OSER website at http://oser.state.wi.us/docview.asp?docid=4982.

This bulletin is amended to reflect changes incorporated in the 2005-2007 WSEU collective bargaining agreement. The original OSER-0081-CLR/LR-MRS bulletin that was issued October 31, 2005, is now obsolete and should be discarded. The Joint Committee on Employment Relations version of the 2005-07 WSEU collective bargaining agreement for the AS, BC, SPS, and Technical bargaining units is posted on the OSER website at http://oser.state.wi.us/docview.asp?docid=5665.

Due to the deletion of outdated memoranda of understanding, Memorandum of Understanding (MOU) 49 was renumbered to MOU 41 in the 2005-2007 agreement. In addition, the MOU's sunset was extended to expire on either Labor Day 2007 or on the effective date of the 2007-2009 agreement, whichever is earlier.

II. Guidelines for Announcing Vacancies Using the ASU Survey A/B Classifications

A. Mandatory Contractual Transfers

Mandatory contractual transfers for ASU Survey classifications with A/B levels should be posted at both the (A) and (B) levels. Out of that combined group of (A) and (B) applicants, the applicant with the greatest seniority should be appointed to the position, regardless of whether that applicant is at the (A) or (B) pay level.

Who should be appointed to the position? In accordance with WSEU MOU 41, which is in effect through either Labor Day 2007 or on the effective date of the 2007-09 agreement, whichever is earlier, the appropriate order is:

1. Most senior employee in the same pay range/same employing unit (mandatory).
2. Most senior employee in the same pay range/between employing units in the same agency (mandatory).
3. Employee in the same pay range/between agencies (permissive).

After MOU 41 expires, the normal contractual transfer provisions will apply.

B. Posting on WISCERS

After mandatory contractual transfers have been cleared, all vacancies must be posted on WISCERS. ASU Survey A/B classification vacancies should be posted on WISCERS listing both the (A) and (B) titles and schedule/ranges.

C. WiscJobs Open and Promotional Recruitments

For open and promotional recruitments announced in WiscJobs, announce the vacancy only at the A level. When announcing A level vacancies, agencies may wish to use wording such as, "The starting pay for this position is (dollar amount per hour)(schedule/range 02/10). After twelve months the successful employee will progress to at least the minimum of the next range, which currently is (dollar amount per hour) (schedule/range 02/11)." Agencies will need to ensure the pay rates, schedule/range, and time period (12 or 18 months) are correct for the classification being announced. When the employee moves from the A range to the B range, the base pay rate is increased by the range adjustment amount as identified in the contract.

III. Determining Reinstatement Eligibility

An employee does not need to have been in a classification that was reallocated as a result of the ASU Survey as of the effective date of the ASU Survey (July 24, 2005), in order to have reinstatement eligibility to a position classified in one of the new ASU Survey classifications. If, within the past five years, the employee had permanent status in one of the old classifications included in the ASU Survey (e.g., Program Assistant, Secretary 1 or 2, etc.), then the employee has reinstatement eligibility to the pay range of the classification created by implementation of the ASU Survey that replaced their former classification.

To determine to what classification or pay range the employee has reinstatement eligibility, the agency human resources office will need to contact the agency that was the employer of the old position and request a review of the employee's position description (PD) for the old classification included in the ASU Survey and classify the position using the new classification specifications created as part of the survey. The two agencies should work together to determine the appropriate reinstatement eligibility. In some cases, the former employer may have already identified the new classification for that position under the new specifications. OSER will be advising employees to contact their previous employer if they have questions about the classification or pay range to which the employee has reinstatement eligibility.

IV. MOU 41 Impact on Transfers, Reinstatements, and Restorations

A. MOU 41

MOU 41 in the 2005-2007 WSEU collective bargaining agreement for the AS, BC, SPS, and Technical bargaining units states:

MEMORANDUM OF UNDERSTANDING NO. 41
2005-07 CONTRACT
ASU SURVEY LAYOFF OPTIONS

(ASU) The Union and the Employer agree that any employee whose classification is reallocated as a result of the ASU Survey shall retain layoff options outlined in 8/5 (transfer in lieu of layoff, bumping, voluntary demotion in lieu of layoff), 8/6 (restoration), and 8/8 (reinstatement), under Article VIII to all classifications at the same or lower pay range created by the ASU Survey for which the employee is qualified.

Classes under the above provisions will be defined as all classifications at the same or lower pay range created by the ASU Survey for which the employee is qualified.

The Union and the Employer agree that any employee whose classification is reallocated as a result of the ASU Survey shall have transfer eligibility in accordance with 7/2 and 7/3 to all new classifications created by the ASU Survey at the employee's current pay range for which the employee is qualified.

This Memorandum of Understanding will ~~sunset one year after the effective date of the ASU Survey, on June 11, 2006.~~expire on either Labor Day 2007 or on the effective date of the 2007-2009 Agreement, whichever is earlier.

B. MOU 41 and Transfers

Refer to Section II of this bulletin for additional information on mandatory contractual transfers.

It should be noted that the third paragraph of MOU 41 pertaining to transfer eligibility applies to **all** employees whose classifications were reallocated as a result of the ASU Survey, regardless of whether they have been laid off or not. The previously existing Program Assistant 1 – 4 classifications were broad, general classifications, and employees were allowed to transfer within those classifications. The ASU Survey split these classifications into a number of separate classifications. Thus, the MOU 41 transfer language, by permitting transfers between classes, recognizes that employees in these new classes previously held greater transfer flexibility. Under MOU 41, agencies have the authority to determine whether an employee is qualified to perform the assigned duties. **Transfers from positions allocated to classifications outside of the ASU Survey, even from other AS positions, are not subject to MOU 41 provisions.**

OSER is providing the following transfer examples to assist agencies in interpreting and applying MOU41:

1. An employee in a position classified as Operations Program Associate (B) in pay range 02-11 can transfer to another position classified in any of the ASU Survey B level classifications in pay range 02-11, such as another Operations Program Associate (B) or Disability Program Associate (B). Even though the employee has not served 12 months' time in class in the Disability Program Associate (A) level, the employee has transfer eligibility based on MOU41. After MOU 41 expires, an employee will not be able to transfer to a (B) level classification unless s/he has served the mandatory time in class for that classification.

Note: The amount of time required for movement from an ASU Survey pay progression classification level (A) to (B) varies with the classification. Some classes require 12 months and others require 18 months at the (A) level before progression to the (B) level. Refer to Negotiating Note No. 59 in the 2005-07 WSEU collective bargaining agreement for the time in class requirements for ASU Survey pay progression classifications.

2. An employee in a position classified as License/Permit Program Associate (A) in pay range 02-10 can transfer to another position classified as Investigative Associate (B) in pay range 02-10. Even though the employee has not served 12 months' time in class in the Investigative Associate (A) level, the employee has transfer eligibility based on MOU 41. After MOU 41 expires, an employee will not be able to transfer to a (B) level classification unless s/he has served the mandatory time in class for that classification.

3. An employee in a position classified as Operations Program Associate (A) in pay range 02-10 transfers to another position classified as Operations Program Associate (A). Since the employee stayed in the same classification upon transfer, the amount of time the employee served in the first Operations Program Associate (A) position counts toward the 12 months' time in class. If the employee transferred to a different ASU Survey (A) level classification, such as Disability Program Associate (A), then the time served as an Operations Program Associate (A) would not count toward the 12 months' time in class and the 12-month time clock would have to start over.

4. A nonrepresented employee in a position classified as Program Assistant–Confidential in pay range 81-05 can transfer only to an (A) level classification in pay range 02-10, such as Operations Program Associate (A). This nonrepresented employee cannot transfer to a (B) level classification in pay range 02-10, such as Operations Program Associate (B), because s/he has not served the mandatory 12 months' time in class. MOU 41 does not apply to this employee because her/his position is nonrepresented. This employee would be allowed to keep her/his rate of pay upon transfer. After serving 12 months' time in class at the (A) level, s/he would not receive a pay increase upon movement to the Operations Program Associate (B) level because s/he has reinstatement eligibility to pay range 11.

C. MOU 41 and Reinstatements

MOU 41 does not establish the initial pay range of a position upon reinstatement. After the person reinstates and the pay range is established, then MOU 41 will apply for transfers and layoff situations.

For example, an employee who was classified as a Program Assistant 2 (PR 02-09) left state service in June 2005 and now wants to reinstate. The employee's previous and new employing agencies have determined that the employee has reinstatement eligibility to Operations Program Associate, which has an (A) level at PR 02-10 and a (B) level at PR 02-11.

If the employee had been in pay status as of July 24, 2005, the initial implementation language in Negotiating Note No. 82 of the 2003-2005 collective bargaining agreement would apply and the employee would have been assigned to the (B) level. Since the employee was not in pay status as of that date, the ongoing administration language in Negotiating Note No. 59 (previously numbered 82) would apply and the employee must

be reinstated to the Operations Program Associate (A) level because the employee has not served the mandatory 12 months time in class.

D. MOU 41 and Restorations

MOU 41 applies to employees who were laid off prior to the effective date of the ASU Survey. Agencies apply the language that exists at the time the employee returns to state service, rather than the language that existed at the time the employee left state service. This is consistent with OSER's interpretation of other contractual provisions (e.g., the extension of the Temporary Transaction Rate (TTR) to two years for employees who were on TTRs at the time the 2003-2005 WSEU contract became effective for the four WSEU bargaining units and the application of the pay on reinstatement language in existence when the employee returns to state service).

V. MOU 41 and Project/Project and Limited Term Employees (LTEs)

Most project/project and LTE positions allocated to ASU Survey classifications should be filled at the (A) level. There are exceptions, including:

1. Situations in which a project/project employee is at the (B) pay level in a classification, the project is terminated, and the individual is appointed to another project/project or LTE position in the same classification. Under these circumstances, the individual could be appointed to the second project/project position at the (B) pay level.

2. Situations in which a permanent employee who had achieved the (B) pay level in a classification as a permanent or project/project employee, and is subsequently appointed to a project/project or LTE position in the same classification. Under these circumstances, the individual could be appointed to the position at the (B) pay level.

Appointing authorities may progress a project/project appointee's position from the (A) level to the (B) level using the same progression timelines provided for in the WSEU contract. However, such a change in level does not meet the definitions of traditional upward movements, so an 8% of the minimum increase **shall not be granted**. The only appropriate increase would be one to ensure the employee is paid at least the minimum of the new pay range.

LTE positions are not meant to be used for a period long enough to allow progression, so they should not progress to the (B) level. They should only be at the (B) level for the situations described above, and pay shall be determined in accordance with Section D of the Compensation Plan.

VI. Contacts for Additional Information

Employees who have questions regarding the ASU Survey A/B classifications should contact their agency human resources (HR) office. If the HR office needs assistance in answering questions, they may contact the appropriate OSER staff.

Contact Wil Mickelson at Wil.Mickelson@wisconsin.gov or (608) 267-5169 for questions regarding contractual transfer or contract interpretation.

Contact Tim Borchert via e-mail at Tim.Borchert@wisconsin.gov or (608) 266-3381 for questions pertaining to compensation.

Contact your DMRS agency contact for questions pertaining to staffing and recruitment.

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