



MARYLAND STATE POLICE PERSONNEL DIRECTIVE



Acting Capacity – Civilian Employees

Distribution: All Civilian Employees	Index: PER 06.08
DLI Reference: N/A	Rescinds: Chapter 4, Sec I (D)
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.01 Purpose

To establish a standard and consistent procedure to designate a civilian employee in an acting capacity and ensure he is compensated correctly.

.02 Policy

MSP will endeavor to promote or reclassify eligible civilian employees to fill vacant supervisory positions. When this is not possible, a commander or director may designate a civilian employee to fill a vacancy on a short-term basis.

.03 Definitions

ACTING EMPLOYEE: a civilian employee who is required to assume duties or responsibilities that are normally performed by an employee of a higher grade or classification.

ACTING PAY: acting capacity pay; compensation paid to a civilian employee who has assumed duties or responsibilities that are normally performed by an employee of a higher grade or classification.

APPOINTING AUTHORITY: an individual or a unit of government that has the power to make appointments and terminate employment; in the MSP, the appointing authority is the Superintendent and his authority may be delegated to others in the agency.

UNOCCUPIED POSITION: a position that is vacant on a permanent basis due to a transfer, promotion reassignment or retirement; or on a temporary basis when the incumbent is on extended training, sick leave or on temporary assignment.

.04 References

[COMAR 17.04.02.02](#)

[COMAR 17.04.02.07](#)

[COMAR 17.04.06.05](#)

.05 CALEA Standards

LE: N/A

TA: N/A

CM: N/A

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.06 Procedures

A. Applicability

The procedures in this directive may not be used to designate an employee to a classification that is in the same non-competitive promotion classification series (e.g., a Police Communications Operator I may not be designated as an acting Police Communications Operator II).

B. The appointing authority may designate an employee to function in an acting capacity to perform the duties of an unoccupied position.

C. The MSP may designate an employee to perform temporary duties in a classification for which the rate of pay is higher than that of the employee's classification due to:

1. the absence of an incumbent;
2. a current vacancy for which recruitment is underway; or
3. unusual circumstances which require the assignment of duties at a level higher than that of the employee's current classification.

D. Criteria

1. Job responsibility, not volume of work, determines eligibility for acting pay.
2. Prior to submitting a request to designate an employee in acting capacity, the supervisor will consider the feasibility of reassigning specific duties, either temporarily or permanently, to other employees.
3. Before permanently reassigning duties to another employee, supervisors should consider:
 - a. if the permanent reassignment of duties to other employees will cause the existing position to be reclassified; and
 - b. the effect will it have on the organizational structure of the MSP.
4. Employees in an acting capacity should meet the minimum requirements for the position as described in the job specifications published by the Department of Budget & Management (DBM).
5. The employee who is to be designated in acting capacity should:
 - a. meet the minimum requirements for the acting classification; and
 - b. have the greatest seniority in the unit.

E. Prohibitions

1. Commanders and directors may not designate an employee to perform temporary duties in a classification for which the rate of pay is higher than that of the employee's classification, if both the employee's classification and the higher classification are within the same noncompetitive promotion classification series.
2. An employee who does not meet the minimum requirements for the classification in which acting pay is authorized will not be moved into a position to avoid paying acting pay.
3. Commanders and directors may not refuse to designate an employee in acting capacity when that employee has actually been assigned additional duties and responsibilities, normally assigned to an employee of a higher classification, to avoid paying acting pay.

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F. Time Periods

1. Employees whose permanent classification is between grades 1 and 10 will be eligible for additional compensation for the period of acting capacity in excess of 10 continuous workdays.
2. Employees whose permanent classification is grade 11 or above will be eligible for additional compensation for the period of acting capacity in excess of 20 continuous work days.
3. The initial period of acting pay is limited to six months or less and may be extended for periods of up to six months.

G. Administrative Procedures

1. Whenever an employee has assumed additional supervisory responsibilities, normally assigned to an employee of a higher classification, his commander or director will contact the HRD Classification & Compensation Specialist or the Director of HRD to determine if an acting capacity designation is appropriate.
 2. If HRD determines that the employee fails to meet the minimum qualifications for the acting classification:
 - a. prior approval for the employee to function in the higher classification must be obtained from DBM;
 - b. the employee's supervisor must write a detailed report regarding the selection of the employee and forward the request his commander for endorsement;
 - c. the employee's commander or director must forward the endorsed request to HRD;
 - d. the employee must submit a résumé or similar document that describes his education, training and experience as it relates to the acting classification; and
 - e. DBM will be asked to review the qualifications of the employee and will make a final eligibility determination if HRD is unable to determine the eligibility of the employee.
 3. If the Classification & Compensation Specialist or Director of HRD determines that such a designation is appropriate, the commander or director will direct the employee to submit a written request for acting pay.
 4. The request for acting pay may be submitted by completing:
 - a. a Form 248, Request for Acting Capacity Compensation, which is generally used for uncomplicated requests in units with a clear and established organizational structure; or
 - b. an Acting Capacity Request Packet, which is generally used when greater detail or more information is needed to justify the request.
 5. Both the Form 248 and the Acting Capacity Request Packet are available on the PowerDMS.
 6. Whether submitted by Form 248 or Acting Capacity Request Packet, the request must briefly describe:
 - a. why the employee was placed in acting capacity (e.g., promotion, transfer, extended illness of the employee who previously held the position) and the date he assumed the position;
 - b. what the employee does (or did) while in the position;
 - c. the fact that the position was previously occupied only by an employee of a classification above that of the acting employee;
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- d. the acting employee's position on the current eligibility list for the higher classification, if applicable.
 - e. the date the acting capacity ended, if applicable.
7. Once the commander receives the request, he will complete the Position Information section of the Form 248 or complete the first endorsement of the Acting Capacity Request Packet, either of which will include:
- a. a statement that there is no incumbent in the position and the reason the position is no longer occupied by the incumbent;
 - b. a statement that other options for filling the position (e.g., reassignment of duties to others) were considered and the reason they were not used;
 - c. the date acting capacity began (and ended, if applicable) and the fact that the employee was in acting capacity for more than the period of time specified in subsection (F)(1) or (F)(2), above; and
 - d. the name of the HRD Classification & Compensation Specialist or Director of HRD with whom the commander spoke regarding the acting employee.
- H. After the commander completes the Position Information section of the Form 248 or the first endorsement of the Acting Capacity Request Packet, the request will be forwarded, through official channels, to the employee's assistant bureau chief.
- I. If any person within the chain command believes the request should be denied, he should:
1. indicate that recommendation on the Form 248 or in his endorsement; and
 2. continue to forward the request until it reaches the Director of HRD.
- J. When a request is approved:
1. HRD will send a Form MS 345, Designation of Employee to Function in an Acting Capacity, to the employee;
 2. the employee will return the signed MS 345 directly to HRD;
 3. HRD will complete the MS 345 and forward it to the employee's bureau chief;
 4. the employee's bureau chief will sign and date the form and forward the form and attachments to the Chief of the Support Services Bureau for his signature; and
 5. the Chief of the Support Services Bureau will return the signed MS 345 and attachments to the Director of HRD for administrative processing.
- K. When a request is denied the Director of HRD will:
1. sign the Form 248, if applicable, and check the box that indicates that the request was denied;
 2. return the request, including all endorsements and attachments, to the employee, through official channels, with an explanation why the request was denied; and
 3. advise the employee that he may meet with the Director of HRD to discuss the denial.

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L. Requests for acting pay can only be denied by the Director of HRD or the Superintendent.

Approved:
_____ Colonel Marcus L. Brown Superintendent 01/01/2014