



United States Patent and Trademark Office

Office of the Commissioner for Patents

MEMORANDUM

Date: June 24, 2016

To: All Patent Examiners and Supervisory Patent Examiners

From: Assistant Deputy Commissioners for Patents Operations

Subject: Within-Grade Increases (WGIs)

The following information is provided to notify you of an enhancement to the PALM Performance and Award Calculator (PAC), and as a reminder concerning the requirements for receiving a Within-Grade Increase (also known as a WGI, WIGI, or “step increase”). WGIs are periodic increases in a General Schedule (GS) employee’s rate of basic pay coincident with the employee’s progression from one step of a grade to the next step. In order to receive a WGI, an employee must meet requirements which are established by law. These include completion of a required waiting period, and performance at an acceptable level of competence. The requirements are discussed in detail below.

Waiting Periods

Employees are eligible for a WGI at intervals which depend on the employee’s current step. There are 10 steps in each grade of the GS pay scale. Employees at steps 1, 2, and 3 will wait 52 workweeks¹ of creditable service from the effective date of their current step until their next WGI. Employees at steps 4, 5, and 6 will wait 104 weeks from the effective date of their current step until their next WGI. Employees at steps 7, 8, and 9 will wait 156 weeks from the effective date of their current step until their next WGI. There are no further WGIs beyond step 10 at any grade. Part-time employees serve the same waiting period as full-time employees. The waiting period restarts when an employee receives a WGI or a promotion to a higher grade.

Step Increase:	Waiting Period:
From Step 1 to Step 2	52 calendar weeks
From Step 2 to Step 3	52 calendar weeks
From Step 3 to Step 4	52 calendar weeks

¹ The number of hours in a “workweek” is based on the employee’s official work schedule. For a full-time employee, a workweek is 80 hours. The length of a workweek for an employee on a part-time schedule is the number of hours that the employee is scheduled to work.

Step Increase:	Waiting Period:
From Step 4 to Step 5	104 calendar weeks
From Step 5 to Step 6	104 calendar weeks
From Step 6 to Step 7	104 calendar weeks
From Step 7 to Step 8	156 calendar weeks
From Step 8 to Step 9	156 calendar weeks
From Step 9 to Step 10	156 calendar weeks

WGIs are always effective on the first day (a Sunday) of a financial or Web T&A pay period. The waiting period starts on that day, and ends with the last day of the 52nd, 104th, or 156th week, which will always be a Saturday. Note that the waiting periods between steps are *not* 1, 2, or 3 years.

Time in a non-pay status, such as Leave Without Pay (LWOP) or Absence Without Leave (AWOL) impacts the length of the waiting period. The amount of time in a non-pay status in a waiting period considered creditable service for advancement differs depending on the employee's current step. An aggregate of no more than 2 workweeks in a non-pay status in a waiting period is considered creditable service for advancement to steps 2, 3, and 4 of the General Schedule; 4 workweeks for advancement to steps 5, 6, and 7; and 6 workweeks for advancement to steps 8, 9, and 10 (5 CFR § 531.406(b)).

Step Increase:	Time in non-pay status not affecting waiting period:	Increase to waiting period for each additional two workweeks in non-pay status:
From Step 1 to Step 2	2 workweeks	2 calendar weeks
From Step 2 to Step 3	2 workweeks	2 calendar weeks
From Step 3 to Step 4	2 workweeks	2 calendar weeks
From Step 4 to Step 5	4 workweeks	2 calendar weeks
From Step 5 to Step 6	4 workweeks	2 calendar weeks
From Step 6 to Step 7	4 workweeks	2 calendar weeks
From Step 7 to Step 8	6 workweeks	2 calendar weeks
From Step 8 to Step 9	6 workweeks	2 calendar weeks
From Step 9 to Step 10	6 workweeks	2 calendar weeks

As an example, a full-time employee at step 2, who is in a non-pay status for an aggregate of 2 workweeks (80 hours) or less during the waiting period, will be eligible for a WGI to step 3 after 52 weeks. If an additional 80 hours of non-pay status is accrued during the waiting period (resulting in a total of 160 hours in non-pay status), the WGI will be delayed by 2 weeks.

The PALM Performance and Award Calculator (PAC) has been modified to provide individual WGI information to enable Examiners to easily determine when they are eligible to receive a WGI. The evaluation period for determining WGI eligibility may not coincide with a fiscal quarter or fiscal year; thus it is important to know when a WGI is due. Failure to meet the

eligibility requirements described below as of the due date of a WGI will result in denial of the WGI. The PAC does not adjust the Next Step Date due to periods in a non-pay status.

The effective date of the most recent WGI is also shown at the top of the biweekly PALM 3205 report as the STEP DT, along with the current grade, step, and effective date of most recent promotion (GRADE DT).

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INNER PRODUCTION SYSTEM TRANSACTION AND COUNT CREDIT ANALYSIS					
ENDING: 5/14/2016					
GRADE: GS-14	GRADE DT: 12/01/13	STEP: 03	STEP DT: 11/29/15	NO. OF EFFECTIVE QSI: 0	
POSITION FACTOR: 1.35	PP EXPECTANCY (GS-12): 16.9	ADJUSTED PP EXPECTANCY (GS-14): 12.52 + 2.50 = 15.02			
UNIT	COUNT	TRANSACTION	CLASS/	DATE OF	

Examiners who believe that any of the information in the profile in the PAC or on the PALM 3205 is incorrect should contact their supervisor for clarification or correction.

Performance at an Acceptable Level of Competence

The following criteria are used to determine whether an Examiner is performing at an acceptable level of competence in order to be granted a WGI. Other employees should consult their manager for information on WGI requirements.

For Patent Examiners, in order to be granted a WGI, current performance must be at least at the Fully Successful (FS) level in all critical elements of the Patent Examiner Performance Appraisal Plan (PAP). The basis for determination of current performance level is different depending on when in the fiscal year the determination is made.

For WGIs which are due (a) in the first quarter of a fiscal year, or (b) 90 days or less from the start of a fiscal year², the determination of current performance is based on the previous fiscal year's end-of-year rating. An Examiner whose WGI is due in the first quarter of the fiscal year or 90 days or less from the start of the fiscal year, will be denied that WGI if his or her last end-of-year rating is less than Fully Successful.

For WGIs due in quarters 2-4 of any fiscal year and after 90 days has passed since the start of the fiscal year, the determination of current performance is based on year-to-date performance for the period starting on October 1 and ending at the end of the pay period immediately preceding the WGI due date. For example, an Examiner whose WGI is due on June 12, 2016, must perform at the Fully Successful level in all critical elements of his or her PAP for the period from October 1, 2015, through June 11, 2016, in order to be granted the WGI.

Other Information

When a WGI is denied based on less than Fully Successful year-to-date performance, the Examiner will be given an interim rating covering the period from the end of the previous rating period (generally the end of a fiscal year) through the end of the WGI waiting period. If the Examiner's previous fiscal year rating is less than FS, no interim rating will be given. The interim rating becomes the Examiner's Rating of Record and will document that the Examiner's current performance is less than Fully Successful in at least one critical element.

Examiners should be aware that regulations prohibit career ladder promotion of an employee whose Rating of Record is less than Fully Successful. An employee who receives an end-of-year Rating of Record of less than FS, or an interim Rating of Record of less than FS because of denial of a WGI, is not eligible for a career ladder promotion, even if he or she meets other criteria for promotion. A new Rating of Record reflecting at least FS performance must be issued before the Examiner can receive a career ladder promotion to the next grade. Interim ratings are permitted only for the purpose of denial of a WGI, to grant a WGI if performance has improved after an end-of year rating of less than FS, or to grant a previously denied WGI if performance has improved to FS or higher. An interim rating for the purpose of making an employee eligible for a career ladder promotion is not permitted. Merit promotions, such as a promotion due to selection as a TQAS, are not prohibited. However, performance appraisals, including interim Ratings of Record, may be considered by selecting officials.

An interim Rating of Record of less than FS may also impact an Examiner's eligibility for awards and other programs such as telework, SEE trips, the Non-Duty Hours Legal Studies Program, and the Non-Duty Technical Training Program. This list is not exhaustive; employees should check each program's requirements.

Reevaluation After Denial of WGI

Under 5 C.F.R. §531.411, employees are entitled to a reevaluation of the denial of a WGI no more than 52 weeks following the original eligibility date. By regulation, supervisors may

² i.e. on or before December 29

reevaluate performance sooner and, when it is determined that the Examiner has demonstrated sustained performance at an acceptable level of competence, grant the WGI. An acceptable level of competence will be demonstrated by attaining and maintaining at least Fully Successful performance in all critical elements of the Patent Examiner PAP. The following describes the process for reevaluation of Examiners' performance. Following a WGI denial, the supervisor should review the performance of the Examiner at the end of the first full quarter after the denial³, or, if the full quarter is less than 90 days long, at the end of the first pay period in which 90 days has passed. Similarly, 90 days must pass before a reevaluation following the end of year Rating. If the year-to-date performance in all critical elements is at least Fully Successful at that point in time, the Examiner should be given a new Rating of Record and the WGI should be granted. The effective date of the WGI will then be the first day after the period of evaluation, and the waiting period for the next WGI will start with that date. If the performance remains less than Fully Successful at that point, the SPE will continue to review performance at the end of every full quarter, and will grant the WGI when the year-to-date performance reaches at least Fully Successful in all critical elements. An end-of-year Rating of Record will be issued as it normally would. If the end-of-year rating is at least Fully Successful, the WGI should be granted effective at the start of the first full pay period in the fiscal year.

WGIs which are denied less than 90 days before the end of the fiscal year will be reconsidered based on the Examiner's end-of-year Rating and will be granted if the end-of-year Rating is at least Fully Successful. In other words, the requirement for at least 90 days to pass before issuance of an interim Rating of Record does not apply to the annual issuance of an end-of-year rating.

³ The "denial" is considered to occur at the end of the period of evaluation. Therefore, a WGI which is due on the first day of a quarter but denied, could be reconsidered at the end of that same quarter, or at the end of the pay period in which 90 days has passed, whichever is later.