



STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

APPLICABILITY  
**DEPARTMENT WIDE**

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## POLICY

TITLE  
**RECOVERY OF OVERPAYMENTS TO EMPLOYEES**

### REVIEW/REVISION HISTORY:

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I.A.2., II.B.3., II.D.1.a., II.D.1.d., IV.B.6., and IV.C. - Adjusted for person-centered language  
I.D., II.D.1.b., and II.E.1. - Adjusted language for clarification

### APPROVED:

Signature on file

\_\_\_\_\_  
**CHERYL STRANGE**, Secretary  
Department of Corrections

12/28/22  
\_\_\_\_\_  
Date Signed

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## REFERENCES:


DOC 100.100 is hereby incorporated into this policy; [RCW 19.16.500](#); [RCW 43.17.240](#); [RCW 49.48.200](#); [RCW 49.48.210](#); Administrative Services Division Standard Process (ASDSP) 105.010; [IRS Publication 15, Employer's Tax Guide](#); [State Administrative Accounting Manual \(SAAM\) 25.80 and 85.34.40](#)

## POLICY:

- I. RCW 49.48.200 governs the recovery of debts due the state in the event an overpayment occurs. The Department will contact and work with the employee to determine an equitable repayment schedule as outlined in Administrative Services Division Standard Process (ASDSP) 105.010. The Department may recover overpayments made to employees per SAAM 85.34.40. Supervisors and Appointing Authorities will provide the necessary support in the collection effort.
- II. RCW 49.48.210 governs the collection of salary overpayments to employees and outlines due process requirements and employee rights with regard to the collection. Due process is the employee's right to dispute the overpayment through an independent review of the facts. The due process rules mandated by the statute are based on whether the employee's position is covered by a collective bargaining agreement.
- III. Knowingly receiving and failing to report an overpayment may result in corrective or disciplinary action, up to and including dismissal.

## DIRECTIVE:

- I. Employees Covered by a Collective Bargaining Agreement
  - A. Notification of Overpayment
    1. The employee will be notified in writing that an overpayment has occurred. The notice will specify the:
      - a. Amount of the overpayment,
      - b. Basis for the claim,
      - c. Employee's rights, and
      - d. Employee's options for repaying the debt.
    2. The employee has 21 calendar days from the date the employee is first notified to respond in writing to the notice of overpayment. The date of notification is the date of documented personal delivery.
  - B. Voluntary Repayment Process

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1. Employees who agree to voluntarily repay the overpayment amount will:

- a. Pay the debt in full, or
- b. Authorize an acceptable voluntary repayment plan per the collective bargaining agreement.

**C. Dispute Process**


1. Employees have the right to dispute an occurrence or amount of overpayment through the grievance procedure contained in the collective bargaining agreement.
  - a. All collection efforts will cease until the grievance is resolved, including all appeals available in the collective bargaining agreement.
  - b. The Appointing Authority will consult with or designate the Regional Business Manager to be involved in the first level response.
  - c. If it is determined that the employee owes the overpayment, the employee will have 21 calendar days to repay the debt or authorize an acceptable voluntary repayment plan.
2. Since statute identifies the collective bargaining agreement grievance process as the employee's due process, the employee is not entitled to an adjudicative proceeding conducted by an Administrative Law Judge.

**D. Involuntary Repayment Process**

1. If the employee does not authorize a voluntary repayment plan, or respond to the notification of overpayment or the first level response to the grievance within 21 calendar days, the Employee and Business Support Services Administration will proceed with an involuntary wage assignment.
2. The recovery process will begin on the next payroll cycle, and deductions will continue until the debt is paid in full, plus any interest.
  - a. Deduction percent is set in statute, although the employee may agree to a higher percent.

**II. Employees Not Covered by a Collective Bargaining Agreement**

- A. Employees should contact their Human Resources Office if they are unsure whether their position is covered by a collective bargaining agreement.

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**B. Notification of Overpayment**


1. When an overpayment occurs, a preliminary discussion will be held with the employee about the overpayment. The Department should consider the overpayment amount and estimated costs to obtain a recovery for each remedy option available.
  - a. The employee will be informed of the dispute process if unable to agree that the overpayment occurred.
2. The employee will be notified in writing that an overpayment has occurred. The notice will specify the:
  - a. Amount of the overpayment,
  - b. Basis for the claim,
  - c. Employee's rights, and
  - d. Employee's options for repaying the debt.
3. The employee has 20 calendar days from the date the employee is first notified to respond in writing to the notice of overpayment as required by RCW 49.48.210. The date of notification is the date of documented personal delivery.

**C. Voluntary Repayment Process**

1. Employees who agree to voluntarily repay the overpayment amount will:
  - a. Pay the amount in full, or
  - b. Authorize a reasonable voluntary repayment plan.

**D. Dispute Process**

1. Employees have the right to dispute an occurrence or amount of overpayment through the following Department review and adjudicative proceeding process.
  - a. An employee seeking Department review must submit the request in writing to Payroll. The employee may request the review be conducted in person or may choose to have the review conducted through written submission of information. The Department review will provide an opportunity for the employee to state why the employee does not owe the debt.

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- b. The Employee and Business Support Services Administration will conduct the Department review, and the employee will be notified of the finding in writing.
- c. If the Department review finds the debt is owed and the employee agrees, Payroll will work with the employee to set up a reasonable voluntary repayment plan.
- d. If the employee does not agree with the Department review finding, the employee can request an adjudicative proceeding.
  - 1) The application must be in writing and delivered to Payroll via certified mail/restricted delivery, return receipt requested, within 28 calendar days of receiving the Department review finding.
  - 2) The Department will forward the application to the Office of Administrative Hearings within 10 business days of receipt.
  - 3) Both parties will provide supporting evidence to the Administrative Law Judge at the hearing.

#### E. Involuntary Repayment Process

1. If a voluntary repayment plan cannot be reached or the Administrative Law Judge decides the overpayment debt is valid, the Employee and Business Support Services Administration will proceed with an involuntary wage assignment.
2. The recovery process will begin on the next payroll cycle, and deductions will continue until the debt is paid in full, plus any interest.
  - a. Deduction percent is set in statute, although the employee may agree to a higher percent.

### III. Separated Employees


- A. Former employees have 30 calendar days from the delivery date of the notice of overpayment to authorize a voluntary repayment plan or submit a written request seeking Department review to Payroll per ASDSP 105.010.
- B. Former employees who wish to dispute an occurrence or amount of overpayment will follow the same process outlined for employees not covered by a collective bargaining agreement.

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- C. If the employee transfers to another state agency before paying back an overpayment, the employee will be given an opportunity to renegotiate the repayment arrangement on the amount still outstanding.

#### IV. Debt Collection

- A. A debt is considered past due 30 days after notification of the overpayment or Department review finding, or as determined valid by the Administrative Law Judge, whichever is later.
- B. The overpayment debt of employees not covered by a collective bargaining agreement or former employees may be turned over to a collection agency if:
  - 1. A voluntary repayment plan is not authorized within the timeframe specified in policy.
  - 2. A request for an adjudicative proceeding is not applied for within 28 calendar days of receiving the Department review findings.
  - 3. The debt is past due.
  - 4. A repayment process has not been completed.
  - 5. An Administrative Law Judge decides through the dispute process that the overpayment debt is valid.
  - 6. The employee leaves state employment, and the employee's final earnings do not permit recovery of the total amount owed.
- C. To collect an overpayment debt through a collection agency, a notification will be sent to the employee, either through personal delivery or certified mail/restricted delivery to the employee's last known address, return receipt requested. This notice will include:
  - 1. A statement of facts regarding the details of the overpayment,
  - 2. The amount,
  - 3. The employee's rights,
  - 4. A demand for payment within 30 days, and
  - 5. Notice that the debt will be turned over to a collection agency if payment is not made within 30 days.
- D. The collection agency will work to collect all of the debt and will charge the employee an additional fee of up to 19 percent of the debt.
- E. The Department may initiate a civil court action to collect an overpayment.

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V. Past Due Debt Interest

- A. Per RCW 43.17.240, the Department may charge one percent interest per month on overpayment debts, starting on the date a debt becomes past due.

VI. Internal Revenue Service (IRS) Reporting Requirements

- A. There are tax implications to consider when repaying an overpayment. The following is for information only and should not be considered tax advice.
- B. The IRS has defined the calendar year as the reporting period for which wages and salary paid are reported on Form W-2 Wage and Tax Statement. If salary and wage payments are available to the employee anytime during the calendar year, the payment is considered paid in that year and reportable on Form W-2 Wage and Tax Statement.
- C. If an overpayment occurs in one calendar year and is repaid in a new calendar year, the Department must follow the guidelines provided in Section 13 of the Employer's Tax Guide published by the IRS. The Department may not offset repayment of overpayments against current year wages, unless the repayment is for an amount received in the current year.
- D. The Department may only adjust the Medicare and/or Social Security taxes, if applicable, for a prior calendar year by issuing Form W-2c Corrected Wage and Tax Statement. Because the employee received and had use of the funds during that tax year, wages paid in error in a prior year remain taxable to the employee for the year in which they were received.
- E. Employees are encouraged to seek tax advice if they have repaid an overpayment from a previous year in the current year.

**DEFINITIONS:**

Words/terms appearing in this policy may be defined in the glossary section of the Policy Manual.

**ATTACHMENTS:**

None

**DOC FORMS:**

None