

11196 PLM-1

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-193991

DATE: August 21, 1979

MATTER OF: County-Committee Employee Appointed in Department
of Agriculture - Initial Pay Rate

DIGEST: Under 5 U.S.C. § 5334(e) a county-committee employee may receive a Department of Agriculture appointment at the step of a GS grade not exceeding the highest basic pay previously received in a county-committee position. Consequently, when the highest previous basic pay falls between two consecutive steps of a GS grade, an appointee's initial pay may not be at the higher of the two steps.

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An employee of a county-committee established under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may receive a Federal appointment with the Department of Agriculture at the pay rate prescribed in 5 U.S.C. § 5334(e) (1976). The Secretary of Agriculture asks whether that pay rate may be (1) at the step of the General Schedule (GS) grade that does not exceed the highest previous rate of pay received in the county-committee position or (2) at the higher of two consecutive steps of the appointee's GS grade if the highest previous county-committee rate was between the two steps.

The initial GS rate prescribed by 5 U.S.C. § 5334(e) for new Department of Agriculture appointees formerly employed by the county committees is:

"the minimum rate of the appropriate [GS] grade, or * * * any step of such grade that does not exceed the highest previous rate of basic pay received by him [the new appointee] during service with such county committee." (Emphasis and brackets added.)

This language was added by section 1 of the act of June 29, 1968, Pub. L. 90-367, 82 Stat. 277.

The House Report on the above legislation (H. Rept. No. 1371, 90th Cong., 2d Sess.), reprinted in the U.S. Code Cong. and Ad. News 2433 says:

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"(1) The Department of Agriculture will be enabled to place the employee in a civil service position at a salary step which is comparable to, but does not exceed, his prior county salary rate. (Emphasis added.)

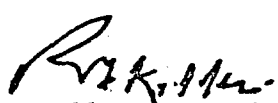
The House Report states that the purpose of the legislation was to facilitate the hiring of qualified personnel in the Department of Agriculture by removing certain impediments to the recruitment of experienced county-committee employees. It points out that under the then existing law county-committee employees in moving from committee jobs to Department had to sacrifice pay in many instances. For example a county manager who was paid a salary rate of level CO-9, step 5 - the equivalent of the rate for Federal grade GS-9, step 5 - had to begin Federal employment at grade GS-9, step 1, at a loss in pay of \$1,044 a year. Under the new legislation exact equivalency, however, would not ordinarily occur if the GS grade upon appointment differed from that of the county-committee position. In this connection, the House Report contains a letter of May 9, 1967, from the Secretary of Agriculture to the Chairman of the House Committee on Post Office and Civil Service, which explains that under the provision:

"County committee employees moving to positions under the Classification Act may have their rate of compensation set at a rate which would eliminate or minimize reductions in salary now required in many cases." (Emphasis added.)

The Secretary, thus, announced the understanding that salary reductions would not be entirely eliminated.

The language of § 5334(e) states specifically that the grade and step of the Federal appointment may "not exceed the highest previous rate of basic pay received in the county-committee position," and that point has support in the legislative history. The initial salary upon appointment may only be at a step of the GS grade which is equal to or less than the county-committee basic pay.

Accordingly, if the highest county-committee rate formerly paid falls between two consecutive steps of the GS-grade, the new appointee may not be paid at the higher of the two steps under 5 U.S.C. § 5334(e).


Deputy Comptroller General
of the United States