

Summary of Complaints

In August 2021, the Office of the Corrections Ombuds received five complaints from incarcerated individuals alleging withheld gratuity payments after being terminated from the Airway Heights Corrections Center's Department of Natural Resources Fire Crew. In September 2022, the Office of the Corrections Ombuds (OCO) received three complaints from incarcerated individuals alleging withheld gratuity payments after being terminated from the Larch Corrections Center's Department of Natural Resources (DNR) Fire Crew. All individuals reported to the OCO that they understood the reason they were terminated. However, after trying, without success, to recover payment or receive an explanation for the withheld gratuity using the DOC Resolution Program, the individuals brought their unresolved concerns to the OCO for assistance.

In 2021, the Washington state legislature passed Second Substitute HB 1168, clarifying that incarcerated individuals, who are members of forest fire suppression and support crews, when fighting fires, "must receive a gratuity no less than the minimum wage per hour paid in the locality in which the industry is located," codified in RCW 72.64.160. During the 2021 and 2022 firefighting seasons, the in-effect interagency agreement (DNR & DOC) states that "payment of gratuities is contingent upon satisfactory work performance by the crew member." The agreement authorizes the DNR Camp Managers to determine if the gratuity, or a portion of the gratuity, is "not warranted if the crew member is reported to have malingered, disrupted the rest of the crew, deliberately or negligently disobeyed instructions or orders, or otherwise performed in an unsatisfactory manner."

The OCO in Action

In August 2021, the OCO investigated the withheld gratuity payments. The OCO identified inconsistencies in withheld payments and asked Airway Heights Corrections Center (AHCC) leadership to resolve the concern by paying the withheld gratuities. Initially, AHCC leadership declined to pay the wages citing the existing interagency agreement. After further conversation, the OCO director requested that DOC leadership amend the interagency agreement language to support paying workers for completed hours worked. Simultaneous with ongoing interagency negotiations to update the agreement and pay the AHCC fire crew workers, in September 2021, the OCO director asked DOC leadership to pay the Larch Corrections Center (LCC) fire crew workers.

Negotiated Outcomes

While not funded to incur these costs, the AHCC Superintendent agreed to pay the five AHCC fire crew workers out of the facility's budget, and the DOC leadership agreed to pay the three LCC fire crew workers out of the department's budget.

The DOC and the DNR are working to finalize a new interagency agreement so that earned DNR fire crew gratuities are not withheld again. According to DOC leadership, DOC's position is to pay people for completed work. According to DNR leadership, DNR's position is to ensure the language aligns with the intent from the passage of HB 1168.

Self-Advocacy Information

If you believe your earned DNR fire crew gratuity was withheld after termination, include this public investigation finding in all communication with the DNR and the DOC, including possible tort claims.