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Collaboration for Success

Fair Labor Standards Act: Overtime Rules



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OVERVIEW

Overtime Rules

- Resources to determine:
 - Eligibility
 - Ineligibility
- Lost Time/Time Off
- Overtime Meals



OVERTIME

Per Section 0850 (f) -Department of Civil Service State Personnel Management Manual Classification and Compensation (SPMM):

- Section 212 of the SPMM, per the FLSA regulations, is a guide to overtime procedures, but may not be necessarily applicable to all State positions and titles.



OVERTIME ELIGIBILITY EXCEPTIONS

Under the FLSA regulations, all titles are considered overtime eligible unless they meet one, or a combination of the FLSA's exemption criteria:

- Executive
- Administrative
- Professional Creative
- Professional Learned
- Computer Employee
- Outside Sales
- Highly Compensated Employee



OVERTIME ELIGIBILITY EXCEPTIONS (CONT)

When attempting to determine eligibility for Overtime for NYS employees, please refer to sections 213 and 214.

- Section 213; Pursuant to State collective bargaining agreements, titles allocated at or equivalent to Grade 22 or below, are generally overtime eligible.
- Section 214; Pursuant to State collective bargaining agreements, titles allocated to Grade 23 or paid the equivalent or above, are generally overtime ineligible.



EMPLOYEE WORK WEEK/HOURS

Generally the work week for a NYS employee is from Thursday to Wednesday.

Full-time employees typically fall into two categories:

- 40 hours per week
- 37.50 hours per week



OVERTIME – ANNUAL EMPLOYEES

Annual, salaried employees grade 22 and below are considered overtime eligible depending on their bargaining unit.



PART-TIME/HOURLY EMPLOYEES

- For most bargaining units part-time employees are overtime eligible, but first they must work extra time at their straight rate to bring them up to 40 hours in the work week in order for them to earn overtime pay.
- Hourly employees that work over 40 hours weekly are entitled to overtime pay.



OVERTIME

All employees **MUST** work **40** hours to receive paid overtime.

- For a 37.50 hour, annual employee:
 - The first 2.5 hours of overtime worked is earned as compensatory time.



OVERTIME WITH LOST TIME

- When an employee has less than 40 hours in a week due to lost time, any overtime earned that week must first be paid at a straight time rate to bring the employee up to the 40 hour threshold.
- Any hours over 40 must be paid as overtime.



LOST TIME/OVERTIME EXAMPLE

Thursday	Friday	Saturday	Sunday	Monday	Tuesday	Wednesday
8 hours	8 hours	9 hours- OT (RDO)	5 hours OT (RDO)	8 hours	Absence- LT- no accruals	8 hours

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
8 hours	8 hours	8 hours OT (RDO)	Absence- LT- no accruals	8 hours	(RDO)	8 hours



EXTRA SERVICE AT OVERTIME RATE

- In most instances, two State agencies are not completely disassociated employers, they will be considered joint employers, and the employee will be entitled to overtime under FLSA.
- The extra service agency **MUST** communicate with the employees primary agency regarding the number of hours worked and rate of pay.



MANDATORY OT (CSEA/PEF/MC)

When an employee works Mandatory Overtime:

- A scheduled or unscheduled absence charged to sick leave accruals is considered time worked



VOLUNTARY OT (CSEA/PEF/MC)

When an employee works Voluntary Overtime:

- A scheduled absence charged to sick leave accruals **is** considered time worked
- An unscheduled absence charged to sick leave accruals **is not** considered time worked



OVERTIME - SECURITY

For all overtime eligible Security bargaining units:

- Time during which an employee is absent from work and charging accruals is considered as time worked for the purpose of computing overtime.



OVERTIME MEAL ALLOWANCES

- The following rules regarding overtime meal allowances apply to CSEA, PEF and SSU/SSPU/APSU represented employees, as well as unrepresented M/C employees regardless of overtime eligibility.



MEAL BREAKS

Per FLSA an employee MUST take a meal break after working 6 hours, unless in a position/location that must be staffed at all times.

- Bona fide meal periods (typically 30 minutes or more) generally need not be compensated as work time. The employee must be completely relieved from duty for the purpose of eating regular meals. The employee is not relieved if he/she is required to perform any duties, whether active or inactive, while eating.



OVERTIME MEAL ALLOWANCES

- One overtime meal allowance shall be paid to employees who work at least :
 - three hours overtime on a regular working day
 - six hours overtime on a pass day
- Two overtime meal allowances shall be paid to employees who work at least :
 - six hours overtime on a regular working day or
 - nine hours overtime on a pass day



OVERTIME MEAL ALLOWANCES PART TIME EMPLOYEES

- One overtime meal allowance shall be paid to part time employees who work at least :
 - Three hours extra time or overtime on a regular working day
 - Six hours extra time or overtime on a pass day



WHEN TO PROCESS OVERTIME AND MEAL ALLOWANCES?

- Per FLSA- Overtime and Meal Allowances should be processed in the same pay period they are earned.



QUESTIONS???



HELPFUL LINKS

NYS Division of Budget - Budget Bulletin G-1024

- <http://www.budget.ny.gov/guide/bprm/bulletins/g-1024.html>

NYS Department of Civil Service- Classification and Compensation Section- 0850 (F)- Overtime Eligibility

- http://www.cs.ny.gov/ssd/Manuals/SPMM/0800PositClassComp/0850f_overtime_eligibility.htm

NYS Department of Civil Service- Labor Relations

- <http://www.cs.ny.gov/businesssuite/Labor-Relations/>

NYS Governor's Office of Employee Relations- Contracts

- http://www.goer.ny.gov/Labor_Relations/Contracts/index.cfm

US Department of Labor- Fair Labor Standards Act

- <http://www.dol.gov/whd/flsa/>

