



NEW MEXICO JUDICIAL BRANCH

GENERAL PERSONNEL POLICY AND PROCEDURE

Reference NMJBPR Part 1, Section 5.05
NMJBPR Part 2, Section 19.05

Inquiries: AOC HR (505) 827-4937 or 827-4810
Dev.: 5/1/06; Definitions Only Rev: 10/6/11

OVERTIME, HOLIDAY AND SHIFT DIFFERENTIAL PAY POLICY

1. PURPOSE

To set forth the procedure for payment of overtime, holiday and shift differentials.

2. DEFINITIONS

- A. **Designated Holiday** - A day designated by the Chief Justice as a holiday.
- B. **FLSA Exempt** - An Employee who is "exempt" from the FLSA overtime provisions and may be paid or compensated for time worked in excess of 80 hours in a pay period at straight time.
- C. **FLSA Non-covered** - All at-will employees are not covered under the FLSA and are therefore not entitled to overtime.
- D. **FLSA Non-exempt** - An employee who is covered by FLSA overtime provisions and is paid or compensated at time and one-half for actual hours worked in excess of 40 hours in a workweek.
- E. **Holiday Premium** - The time and one-half compensatory time off or, if approved by the Administrative Authority, the time and one-half pay received by an at-will employee or employee for all hours actually worked on a holiday, in addition to normal holiday pay.
- F. **Overtime** - Hours worked in excess of 40 hours in a week for FLSA non-exempt employees and hours worked in excess of 80 hours in a pay period for FLSA exempt employees.
- G. **Paid Holiday** - The straight-time (hour for hour) pay entitlement granted to eligible at-will employees and employees for recognized non-worked holidays declared by the Chief Justice.
- H. **Shift Differential** - A premium rate applied for work regularly scheduled between 6:00 p.m. and 7:00 a.m.



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3. OVERTIME PAY

A. Monetary compensation shall be:

- (1) contingent upon judicial entity budget availability, except as provided below in 3B(1);
- (2) fair and equal in the number of overtime hours monetarily compensated for in its distribution to FLSA exempt and FLSA non-exempt employees.

B. Earned Compensatory Time

- (1) An FLSA non-exempt employee shall not lose any earned compensatory time under any circumstances, and any earned compensatory time shall be paid upon termination.
- (2) An FLSA non-exempt employee may not earn more than 80 hours of compensatory time in a calendar year, unless otherwise approved by the Administrative Authority due to extenuating circumstances.
- (3) FLSA exempt and FLSA non-covered employees shall lose any earned administrative compensatory time over 80 hours in a calendar year, unless otherwise approved by the Administrative Authority due to extenuating circumstances.

C. Monitoring Compensatory Time

- (1) The Administrative Authority or designee shall monitor compensatory time balances and notify employees in writing of compensatory time balances no later than the last pay period in October.
- (2) An employee is responsible for monitoring compensatory time balances and should request compensatory time off throughout the year to avoid causing undue stress on organizational needs at the end of the calendar year, to avoid losing compensatory time, if applicable.



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4. HOLIDAY PAY WITHIN A WORKWEEK

A. A full-time employee shall receive holiday pay for eight (8) hours in the following manner:

- (1) a full-time employee who works a regular five (5) day schedule, eight (8) hours each day, shall receive a paid holiday entitlement of eight (8) hours;
- (2) a full-time employee who works an alternative work schedule shall receive a paid holiday entitlement not to exceed eight (8) hours.

For example: A full-time employee who is regularly scheduled to work a four (4) day week, 10 hours each day, shall not receive more than eight (8) hours of holiday pay for any paid holiday. To receive a total of 10 hours of pay on the day of the paid holiday, the employee may, with supervisory approval:

- a. work an additional two (2) hours during the workweek in which the holiday is observed;
- b. use accrued annual leave or compensatory time to make up the two (2) hours of time not paid on that holiday.

If the holiday falls on an employee's regularly scheduled day off, the employee shall make arrangements with the employee's supervisor to take eight (8) hours of holiday leave in the pay period in which the holiday falls.

B. A part-time employee shall receive holiday pay on a prorated basis.

For example: A part-time employee who works 20 hours a week shall not receive more than four (4) hours of holiday pay for any paid holiday, even if regularly scheduled to work more than four (4) hours on the observed holiday.

C. Any Judicial Branch employee who is required to work on a holiday shall receive:

- (1) regular pay not to exceed eight (8) hours on the holiday;
- (2) pay at time and a half for all hours actually worked on the holiday.

D. An employee who has been approved to work overtime during a week in which a holiday occurs, but who is not required to work on a holiday, shall not receive pay at time and a half if they choose to work on the holiday. An employee cannot receive pay at time and a half for a holiday and compensatory time for the same work hours.



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5. SHIFT DIFFERENTIAL PAY

- A. To be eligible for shift differential pay, an employee must be regularly scheduled to work between 6:00 p.m. and 7:00 a.m.
- B. Shift differential pay shall be made at a rate not less than \$0.60 per hour in addition to an employee's regular hourly rate of pay when assigned to perform a regularly scheduled shift.
- C. Shift differential pay must be included when computing an employee's overtime compensation.
- D. Shift differential pay shall be funded within the judicial entity's appropriation, and there will be no request for a deficiency or supplemental appropriation or for emergency funding from the State Board of Finance to implement and maintain the shift differential.
- E. Shift differential pay shall not be paid when an employee elects to work an alternative or modified schedule (i.e., four 10-hour days).
- F. Shift differential pay shall not be used for the purpose of computing insurance premiums.

Effective Date: October 21, 2011



Arthur W. Pepin, Director
Administrative Office of the Courts

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Date