

Article 8 Reference Guide

Overtime

National APWU -Article Office

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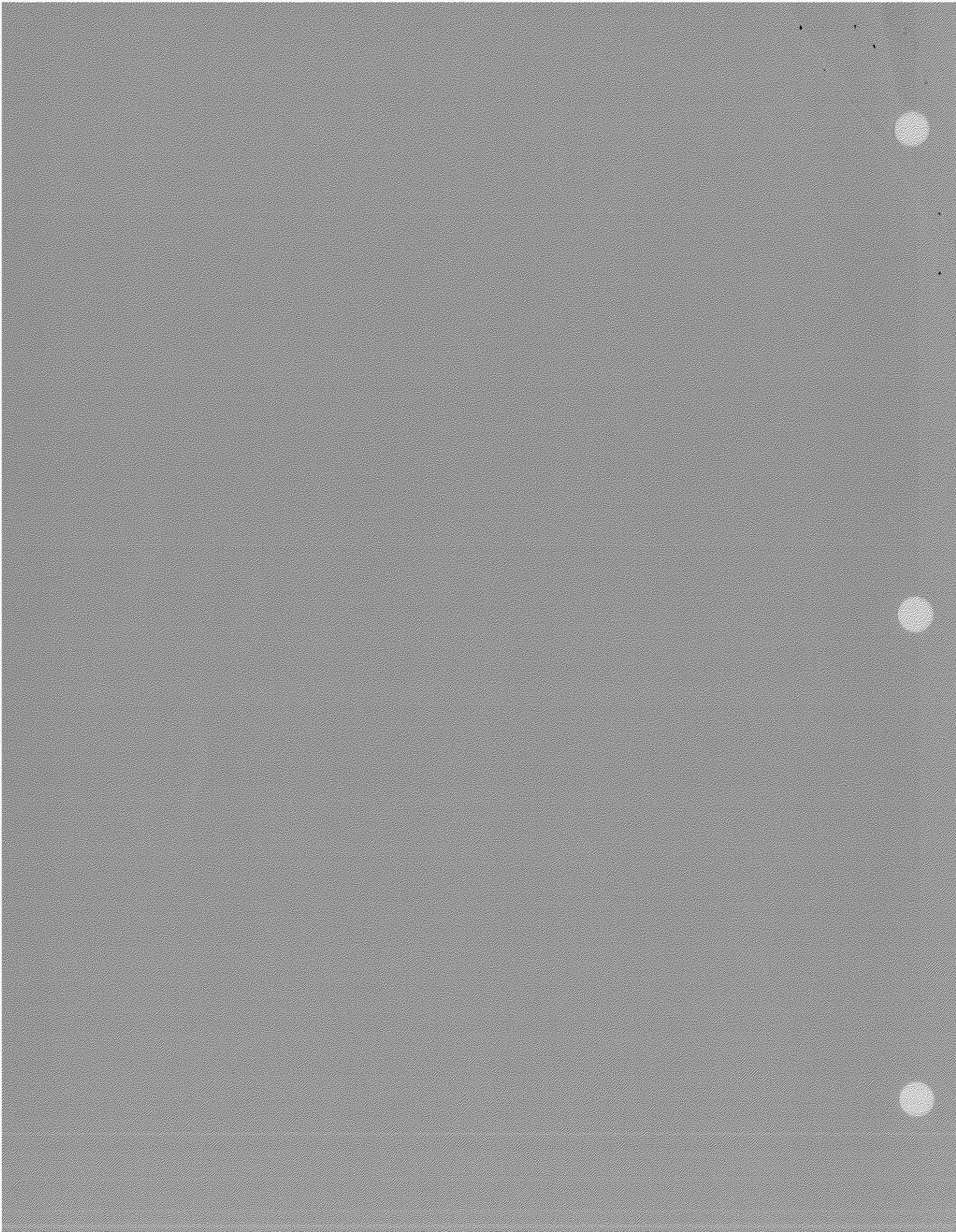
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Article 8, Hours of Work

1. What is the work week for a full-time regular in an office with less than 100 full-time employees in the bargaining unit?

Response: Forty (40) hours per week, Eight (8) hours per day within ten (10) consecutive hours.

Source: Article 8, Section 1.

Agreed

2. What is the work week for a full-time regular in an office with more than 100 full-time employees in the bargaining unit?

Response: (40) Forty hours per week, (8) eight hours per day within (9) nine consecutive hours.

Source: Article 8, Section 1

Agreed

3. What is an employee's service week?

Response: The calendar week beginning at 12:01 a.m. Saturday and ending at 12:00 midnight the following Friday.

Source: Article 8, Section 2.A.

Agreed

4. What is an employee's service day?

Response: The calendar day on which the majority of work is scheduled.

Source: Article 8, Section 2.B.

Agreed

5. Can part-time regulars have a work week consisting of less than (40) forty hours a week or less than (8) hours a day?

Response: Yes

Source: Article 8, Section 1

This should be changed to read "Can a part-time regular have a work week consisting of forty 40) hours per week or eight (8) hours per day?" The response should be "no" (See Downes letter on part-time regulars).

6. Does the reference to scheduling "part-time" employees in Section 3 apply to both part-time regulars and part-time flexible employees?

Response: No - The reference to scheduling "part-time" employees "in accordance with the above rules" apply only to part-time regular employees.

Source: "Memo of Interpretation" signed by the APWU, NALC and Mailhandlers dated November 4, 1971.

This question should be rewritten for clarity.

7. Can the schedule of a part-time regular be permanently changed?

Response: Yes - Changes can be made in accordance with operational needs, but such changes should not be made on a day-to-day or week-to-week basis. Changes are accomplished through entry on their Form 50.

Source: National Arbitration Award dated July 9, 1982 by Arbitrator Mittenthal. (case H8T-2F-C-6605)

Agreed

8. When the schedule of a part-time regular employee is permanently changed, is the assignment reposted?

Response: No

Source: Article 37, Section 2.E.2.

This should be removed because it is referring to language in the clerk craft

article and is not a general application for all craft articles.

9. Are part-time regular employees entitled to out-of-schedule overtime for work performed outside their established schedule?

Response: No - part-time regular employees are not entitled to overtime pay until the work performed exceeds 8 hours in a day or 40 hours in a week. However, such employees should be worked the number of hours recorded on their Form 50 since that represents a condition of employment.

Source: ELM 434.6 and Step 4 agreement H4C-3U-C-3503 dated 11/7/85.

Agreed

10. What is the rate of pay for overtime work?

Response: One and one-half (1 1/2) times the base hourly straight time, which includes COLA.

Source: Article 8, Section 4.A.

Agreed

11. What is the rate of pay for penalty overtime work?

Response: Two (2) times the base hourly straight time rate, which includes COLA.

Source: Article 8, Section 4.C.

Agreed

12. When does the overtime rate of pay become applicable for regular workforce employees?

Response: For work performed beyond eight (8) paid hours in any one service day (postal overtime).

Source: Article 8, Section 4.B. and ELM 434.131

Agreed

13. When does the overtime rate of pay become applicable for casual and transitional employees?

Response: For work performed beyond forty (40) hours in any one service week (F.L.S.A. overtime).

Source: MOU APWU Transitional Employees - 12/3/91 and ELM 434.132 and ELM 440.

Agreed

14. What is included in "paid hours" when calculating postal overtime eligibility?

Response: Paid work hours and paid leave hours.

Source: ELM 434.123.

Agreed

15. Is "out-of-schedule premium" considered "overtime"?

Response: No - It is a premium paid to eligible full-time regular employees, at 50% of the employee's base hourly rate, for time worked outside of, and instead of, their regular schedule, when working on a temporary schedule at the request of management.

Source: Elm 434.6 and Mittenthal, HIT-4K-C-2121 11/12/82.

Agreed

16. Is management required to give the employee advance notice of the temporary schedule change?

Response: Yes. Notice must be given to the employee by Wednesday of the preceding service week. If such notice is not given, the employee is entitled to work their regular schedule. Any hours worked outside this schedule would be "in addition to" rather than "instead of", and are paid as overtime hours worked.

Source: ELM 434.6

Agreed

17. Do "unassigned regular" employees have a regular schedule.

Response: Yes. The first schedule assigned to the employees in the "unassigned regular" status becomes the employee's regular schedule.

Source: National arbitration decision H1C-5F-C-1004/1007, Howard Gamser, 9/10/82

Agreed

18. Can the schedule of an "unassigned regular" employee be permanently changed without paying "out-of-schedule" premium?

Response: The only way to permanently change the unassigned regular's schedule is by either the employee being a successful bidder or being assigned by management to a residual vacancy.

Source: National arbitration decision H1C-5F-C-1004/1007, Howard Gamser, 9/10/82.

This should be discussed with clerk craft officers

19. Does the "out-of-schedule" premium provisions apply to all full-time bargaining unit employees?

Response: Yes, except when the work schedule of a "full-time flexible" employee is changed by Wednesday of the preceding week.

Source: MOU - Maximization/Full-Time Flexible APWU & NALC

Agreed

20. When does the penalty rate of pay become applicable?

Response: 1. If full-time employee is required to work overtime on more than (4) of the employee's (5) scheduled work days in a service week (e.g., if employee was required to work overtime on his 5th day of work after working overtime on the preceding scheduled work days, he/she would be entitled to penalty overtime pay for the overtime hours worked on the 5th day).

2. If an employee works over 20 hours on a regularly scheduled day (e.g., if employee worked 11 hours, said employee would be entitled to (2) two hours at the time and one-half rate and 1 hour overtime at the penalty rate).

3. If a full-time employee works over 8 hours on his/her non-scheduled day (e.g., employee works 10 hours on non-scheduled day. Employee is entitled to 8 hours at time and one-half and 2 hours at the penalty rate).

4. If a full-time employee works over 6 days in a service week (e.g., employee works the 2nd non-scheduled day of service week. Employee is entitled to be compensated at the penalty rate for all hours worked on the 2nd non-scheduled day).

5. If a part-time flexible or part-time regular works over 10 hours in a service day or over 56 hours in a service week.

Source: Article 8, Section 5.F.

It was discussed to take part-time regulars out of #5 because it implies that part-time regulars can work overtime.

21. Are employees entitled to penalty pay for overtime hours worked during the month of December?

Response: No

Source: Article 8, Section 4.C.

Agreed

22. If two or more rates (overtime or premium) appear applicable to the same hours worked, how is the employee compensated?

Response: The employee is compensated at the higher applicable rate.

Source: Article 8, Section 4.F.

Agreed

23. Does the Overtime desired list apply to part-time regular or part-time flexible employees?

Response: No, the overtime desired list applies only to full-time employees. Only in emergency or unanticipated circumstances should the part-time regular's work hours be expanded beyond their fixed schedule.

Source: Article 8, Section 5.A.

Agreed

24. How is the Overtime desired list established?

Response: By craft, section and/or tour in accordance with Article 30, Local Implementation.

Source: Article 8, Section 5.A.

Agreed

25. When may an employee sign up on the Overtime desired list?

Response: Only during the two (2) week period prior to the start of each calendar quarter.

Source: Article 8, Section 5.A. and Joint Statement on overtime between USPS and NALC June 8, 1988.

Agreed

26. Should an employee who signs the OTDL indicate a preference for the amount of overtime desired (10 or 12 hours)?

Response: Yes, employees who prefer to work in excess of 10 hours on a scheduled day up to a maximum of 12 hours should indicate said preference on the OTDL.

Source: MOU - Article 8 & Joint statement - NALC, 6/8/88.

Agreed

27. Can full-time employees on limited or light duty sign up for the Overtime desired list?

Response: Yes.

Source: Joint statement on overtime between USPS and NALC, June 8, 1988.

Agreed

28. Is a full-time employee on limited or light duty entitled to overtime?

Response: A full-time limited or light duty employee's entitlement to overtime is dependent upon the employee's medical limitations.

Source: Joint statement on overtime between USPS and NALC, June 8, 1988.

Step 4 H4C-2F-C-45261 should also be included in the source for this question.

29. May an employee request that his name be removed from the OTDL during the quarter?

Response: Yes, however, management does not have to honor the request on the day that the employee makes said request (e.g., on Tuesday morning employee is advised that he will be required to work 2 hours overtime. Employee responds by stating that he requests that his name be removed from the OTDL. Management does not have to honor the request on Tuesday, but will honor request on Wednesday).

Source: Joint statement, June 8, 1988.

There was also a Step 4 in the source for this question.

30. If an employee signs up on the OTDL is he/she required to work overtime?

Response: Yes, however, Article 8, Section 5.E. provides for exceptions.

Source: Joint statement, June 8, 1988.

I recommend that exceptions "based on equity" be added because that is the language found in Article 8.5.E.

31. Is management required to assign overtime to OTDL employees before utilizing a transitional employee in excess of 8 work hours in service day?

Response: Yes, qualified and available full-time employees on the appropriate OTDL will be selected to perform such work.

Source: Article 8, Section 5.G.

Agreed

32. Is management required to assign overtime to OTDL employees before assigning overtime to PTFs or casuals?

Response: No, management may assign overtime to PTFs or casuals rather than utilize full-time regulars on the OTDL or work assignment list.

Source: Joint Statement, June 8, 1988. Arbitrator Mittenthal 11/26/80 - M8-W-0027, M8-W--E-0032.
Arbitrator Zumas 11/21/85 - H1C-4K-C-27344/45.

Agreed

33. Is the overtime desired list used for Holiday scheduling?

Response: No, the OTDL is not used when preparing the prescribed holiday schedule posting for holiday coverage. If the need for additional full-time coverage is determined subsequent to the Holiday schedule posting, then recourse to the OTDL would be appropriate.

Source: Joint Statement, June 8, 1988. Arbitrator Mittenthal 4/15/83 - H8C-5D-C-14577.

Agreed

34. How is overtime distributed to employees on the OTDL?

Response: Except in the Letter Carrier Craft, employees are selected to work overtime from the appropriate OTDL, by seniority, on a rotating basis.

Source: Article 8, Section 5.C.1.a.

Agreed

35. Does Article 8, Section 5.C.1.a. and b. apply to the Letter Carrier Craft?

Response: No.

Source: Pre-arbitration settlement, H4N-5K-C-16868, 9//6/88.

Agreed

36. May management remove an employee's name from the ODL?

Response: No.

Source: Pre-arbitration settlement H4N-5K-C-4489, September 12, 1988

Agreed

37. What is the proper remedy when an APWU-represented employee who is on the OTDL is improperly passed over in the selection for overtime work assignments?

Response: 1. When, for any reason, an employee on the OTDL, who has the necessary skills, is available, is improperly passed over and another employee on the list is selected for overtime work out of rotation, shall, within 90 days of the date the error was discovered, be given a similar make-up overtime opportunity.

Should no similar make-up overtime opportunity present itself within 90 days, the employee who was passed over shall be compensated at the overtime rate for the missed overtime period.

2. When, for any reason, an employee on the OTDL, who has the necessary skills, is available, is improperly passed over and another employee not on the list is selected for overtime work, the employee who was passed over shall be paid for an equal number of hours at the overtime rate for the opportunity missed.

Source: APWU-OTDL Settlement Agreement, January 13, 1975.

Agreed

38. Must all employees on the OTDL be utilized 12 hours per day before an employee not on the list works any overtime?

Response: Yes, except when there are time critical processing needs that cannot be met unless non-list employees are worked. At such time, list and non-list employees may be scheduled simultaneously.

Source: National Arbitration decision H4C-NA-C-30, Mittenthal, January 14, 1991.

Agreed

39. How are full-time regular employees not on the overtime desired list scheduled to work overtime when the OTDL does not provide sufficient people (does not include "work assignment" overtime)?

Response: When full-time regular employees not on the OTDL are needed to work overtime, they are forced on a rotating basis beginning with the junior employee. In such circumstances management may, but is not required to, seek volunteers from non-OTDL employees.

Source: Article 8.5.D. and NALC Joint Statement

Agreed

40. Is the 60 hour limitation (Article 8, Section 5.G.) an absolute bar to working full-time employees beyond 60 hours in a service week?

Response: Yes, Article 8, Section 5.G.2. does establish an absolute bar against employees working more than 60 hours in a service week.

Source: National Arbitration Award, May 12, 1986, Arbitrator Mittenthal (H4N-NA-C-21 and H4C-NA-C-27).

Agreed

41. If management violates the 12 hour or 60 hour restriction, what is the remedy for said violation?

Response: In instances where this provision is or has been violated and a timely grievance is filed the full-time employee(s) will be compensated at an additional premium of 50 percent of the base hourly straight time rate for those hours worked beyond the 12 or 60 hour limitation. Additional compensation could be awarded if the 60 hour limit is violated with impunity.

Source: MOU between USPS, NALC and APWU, October 19, 1988. National Arbitration Award, H4N-NC-C-21 and H4C-NA-C-27, Mittenthal (fourth issue)

Agreed

42. After a full-time employee reaches 20 hours of overtime within a service week is he/she still available for overtime?

Response: No. Once the employee reaches 20 hours of overtime within a service week, the employee is no longer available for any additional overtime work.

Source: MOU between USPS, NALC, and APWU, October 19, 1988.

Agreed

43. What is management's obligation when an employee reaches the 60th hour of work?

Response: The employee's tour of duty shall be terminated once he/she reaches the 60th hours of work.

Source: MOU between USPS, NALC, and APWU, October 19, 1988; National Arbitration Award, May 12, 1986, Arbitrator Mittenthal, H4N-NA-C-21 (third issue) and H4C-NA-C-27.

Agreed

44. Does paid leave count toward the 12 and 60 hour work limits?

Response: Yes.

Source: ELM 434.123

Agreed

45. Is an employee sent home in the middle of the tour on a regularly scheduled day, because of the bar against employees working more than 60 hours in a service week, entitled to be paid for the remainder of his scheduled day?

Response: Yes, an employee having been sent home on his regularly scheduled day before the end of his tour due to the 60 hour ceiling and having experienced no temporary change of schedule, must be compensated for the hours he lost that day.

Source: National Arbitration Award, September 11, 1987, Arbitrator Mittenthal, H4N-NA-C-21 (third issue) and H4C-NA-C-27.

Agreed

46. May overtime desired list employees on annual leave immediately preceding or following non-scheduled days be required to work on their off days?

Response: 1. Normally, employees on the overtime desired list who have annual leave immediately preceding and/or following non-scheduled days will not be required to work overtime on their off days.

2. However, if they do desire, employees on the overtime desired list may advise their supervisor in writing of their availability to work a non-scheduled day that is in conjunction with approved leave.

Source: Step 4, H1N-5H-C-18583, March 12, 1984, and H1C-4F-C-10813, dated November 18, 1983.

Agreed

47. May an employee opt to bring their name forward from one overtime desired list to another when they are successful in bidding on a different tour or section?

Response: Yes, unless otherwise addressed in the Local Memorandum of Understanding.

Source: Pre-arbitration agreement, H1C-1Q-C-33127, dated 1/31/85.

The answer to this question should be "no" unless it is otherwise addressed in the Local Memorandum of Understanding.

48. If a PTF becomes a regular in the middle of a quarter as defined in Article 8, Section 5.A., may he/she sign the Overtime Desired List?

Response: The National Agreement does not provide for signing the OTDL during a Quarter.

Source: Article 8, Section 5.

The answer to this question should be "no" unless it is otherwise addressed in the Local Memorandum of Understanding.

49. May an employee who was not on any overtime desired list at the beginning of the quarter place their name on the overtime desired list when they are successful in bidding on a different tour or section?

Response: No. They would be required to wait until the next quarter sign up period, unless otherwise addressed in the Local Memorandum of Understanding.

Source: Pre-arbitration agreement H1C-1Q-C-33127, 1/31/85.

Agreed

50. May a 204-B be utilized in lieu of a bargaining unit employee for the purpose of bargaining unit overtime?

Response: The parties have agreed that an acting supervisor (204-B) will not be utilized in lieu of a bargaining unit employee for the purpose of bargaining unit overtime.

It was agreed as well that the PS Form 1723 will determine the time and date an employee begins and ends a detail and that an employee detailed to an acting supervisory position will not perform bargaining unit overtime immediately prior to or immediately after such a detail, unless all available bargaining unit employees are utilized.

Source: Pre-arbitration settlement H1C-5G-C-5929, 3/2/83.

Agreed

51. Does "Holiday Worked Pay" count towards the 56 and 60 hour work limits?

Response: No. "Holiday Worked Pay" is a premium paid to eligible employees for hours worked on a holiday. However, since employees are given credit for paid leave on a holiday, the "Holiday Leave" time would count toward the 56 and 60 hour limits.

Source: ELM 434.123.

Agreed

52. What is the minimum number of hours a part-time flexible employee can be scheduled or requested to work in a service day?

Response: In facilities with 200 or more man years of employment, the guarantee is 4 hours. Employees in all other facilities are guaranteed 2 hours.

Source: Article 8, Section 8.C.

Agreed

53. Can an employee work less hours than the contractual guarantees provided for in Article 8, Section 8?

Response: Management may not solicit employees to work less than their call in guarantee, nor may employees be scheduled to work if they are not available to work the entire guarantee. However, an employee may waive the guarantee in case of personal illness or emergency.

Source: ELM 432.63, F22-222.14, Step 4 Agreement H4N-2D-C-40885/H4N-2M-C-33087, November 14, 1988.

Agreed

54. Does the number of overtime hours an employee is requested to work at the end of a regularly scheduled day become a guarantee?

Response: No. Employees only work overtime for the period of time they are needed.

Source: Step 4 Agreement H1C-1Q-C-31410/11, dated 10/4/84.

Agreed

55. When an employee is called in to work overtime on their non-scheduled day, are they contractually guaranteed to work their bid position?

Response: No. Employees called to work on a non-scheduled day only have a work hour guarantee.

Source: Step 4 Agreement H1C-4H-C-37976 dated 8/15/85.

Agreed

56. When does the part-time flexible guarantee take effect?

Response: When the employee reports to work as scheduled. No guarantees apply when the PTF is notified prior to reporting to work that the previously scheduled work day is canceled.

Source: National Arbitration Award H1N-3U-C-28621, Arbitrator Britton, December 13, 1988.

Agreed

57. Can a part-time flexible employee be returned to work on the same day without incurring another guarantee period?

Response: Yes. When a PTF employee is notified prior to clocking out that he/she should return within two hours, this will be considered a split shift and no new guarantee applies.

When a part-time flexible employee, prior to clocking out, is told to return after two hours, that employee must be given another minimum guarantee of two hours work or pay.

All part-time flexible employees who complete their assignment, clock out and leave the premises regardless of interval between shifts, are guaranteed four hours of work or pay if called back to work. This guarantee is applicable to any size office.

Source: Step 4 agreements H4N-2F-C-39\892 dated 2/10/86 and H4C-1J-C-11264 dated 4/29/86.

Agreement was made to insert "who has completed guarantees" in the second response paragraph.

58. Does a part-time flexible employee have a guaranteed number of hours per pay period?

Response: Yes. In offices with 200 or more man years of employment, part-time flexible employees are guaranteed a minimum of 4 hours per pay period. In all other offices, they are guaranteed a minimum of 2 hours per pay period, to stay in compliance with the intent of Article 6 of the National Agreement.

Source: Policy letter from Brian J. Gillespie, Director Office of Program and Policies, Labor Relations Department to Emmet Andrews, Director Industrial Relations, APWU, dated December 23, 1974.

Agreed