

1984 NATIONAL AGREEMENTS
USPS - APWU/NALC
USPS - NPOMH
ARTICLE 8 BRIEFING INFORMATION

The following is a brief overview of the new Article 8 provisions involving Penalty Overtime Pay:

- o The new provisions of Article 8, Hours of Work, of the 1984 National Agreements with the APWU/NALC and the Mailhandlers were effective 1/19/85.
- o New language in Article 8, Section 4 provides for a new category of pay entitled Penalty Overtime Pay. Penalty Overtime Pay is paid at two times the base hourly straight time rate. Penalty overtime pay will not be paid for any hours worked in the month of December.
- o For full-time employees, Penalty Overtime Pay is paid for all work in contravention of the restrictions identified in Article 8, Section 5.F. Article 8, Section 5.F provides that full-time employees may not be required to work:
 - 1. overtime on more than four of the employee's five regularly scheduled workdays.
 - 2. over 10 hours on a regularly scheduled workday.
 - 3. over 8 hours on a non-scheduled day.
 - 4. on more than 1 non-scheduled day.
- o Violations of any of the above requires the payment of Penalty Overtime Pay; whether or not the employee volunteers or is required to work.
- o Beginning the first full pay period after 9/1/85, excluding December, part-time employees will receive Penalty Overtime Pay for all work in excess of 10 hours in a service day or 56 hours in a service week.
- o Article 8, Section 5.G provides that full-time employees not on the ODL may not be required to work overtime until all available employees on the list have worked up to 12 hours in a day or 60 hours in a week. Employees on the ODL may not work more than 12 hours in a day or 60 hours in a service week.
- o In addition a related memorandum requires that ODLs are to be annotated to indicate those employees volunteering to work up to 12 hours on 4 of their 5 regularly scheduled workdays. The ODLs would then have 2 categories of volunteers:

1. volunteers who wish to work up to 12 hours per day and a maximum of 60 hours per week.
2. volunteers who wish to work up to 10 hours per day and a maximum of 56 hours per week.

Labor Relations Department
January 23, 1985

QUESTIONS AND ANSWERS

The following is a compilation of questions and answers concerning the application of the new provisions of Article 8, Sections 4 and 5.

1. Will penalty overtime be computed manually or by the PDCs?

Answer:

See Postal Bulletin 21495 dated January 14, 1985.

2. Is an employee entitled to penalty overtime pay even if that employee volunteers to work in excess of the restrictions identified in Article 8, Section 5.F?

Answer:

Yes, excluding December, any work in excess of those restrictions should be compensated at the penalty overtime pay rate; regardless of whether or not the employee volunteered. By signing the overtime desired list, an employee has indicated a willingness to work up to 12 hours in a day and 60 hours in a service week; the employee will receive penalty overtime pay for all hours which exceed the provisions of Article 8, Section 5.F.

3. Have there been any negotiated changes to the policies concerning providing overtime work to either part-time flexible employees or full-time employees?

Answer:

No.

4. Must all employees on the overtime desired list work 12 hours per day before an employee not on the list works any overtime?

Answer:

Not in all circumstances. All available employees on the overtime desired list must be required to work up to 12 hours per day and 60 per week prior to utilizing an employee not on the overtime desired list.

"Available" is the key. For example, if it is not possible to complete the required work in the time available using only overtime desired list employees; then employees not on the list may be used.

5. Does an employee's non-scheduled day of overtime affect the number of days an employee is eligible to work overtime in a service week?

Answer:

No. An employee may work overtime on one non-scheduled day and 4 of the 5 scheduled days in a service week. These days may be consecutive calendar days.

6. May letter carriers not on the overtime desired list be required to work overtime on their own route?

Answer:

Yes. Seek to use auxiliary assistance first; but when such assistance is not available, use the non-overtime desired list carrier on his/her own route.

7. Can you require a full-time employee to work overtime on more than 4 of the employee's 5 scheduled days as long as you pay penalty overtime?

Answer:

Employees work as directed by management. Normally, the employee should not be required to work overtime on the fifth day, with the exception of December.

8. Can you require a full-time employee not on the overtime desired list to work over 10 hours per day?

Answer:

Employees work as directed by management. A full-time employee not on the overtime desired list should not be required to work over 10 hours per day, with the exception of December.

9. Can you require a full-time employee to work more than 8 hours on a non-scheduled day?

Answer:

Employees work as directed by management. With the exception of December, a full-time employee should not be required to work more than 8 hours on a non-scheduled day whether or not the employee is on the overtime desired list.

10. Is it permissible to require a full-time employee who has Friday and Saturday as non-scheduled days to work Sunday of week 1 through Thursday of week 2? *

Answer:

Yes, assuming appropriate application of the overtime desired list, because the employee would be working only one non-scheduled day in each of the service weeks.

11. Can we require those employees on the "10 hour" overtime desired list to work an 11th hour before going to those employees on the "12 hour" overtime desired list?

Answer:

That may be permissible, if no "12 hour" employees are available.

12. Article 8, Section 5.G provides that employees not on the overtime desired list may be required to work overtime only if all available employees on the overtime desired list have worked up to 12 hours in a day or 60 hours in a service week. Does this mean that the supervisor will maintain a continuous tally of overtime worked?

Answer:

Local records will need to be kept.

13. In the case of overtime requirements early in a service week, how would a supervisor know whether all overtime desired list employees would be utilized for 60 hours that week?

Answer:

Overtime would be scheduled that day based upon immediate needs.

14. Can an employee who is not on the overtime desired list voluntarily work overtime if an available employee on the overtime desired list has not been directed to work more than 10 hours?

Answer:

The available overtime desired list employee should be required to work; even though it may require the payment of penalty pay.

15. If an employee not on the overtime desired list works overtime, are you obligated to work all those on the list 12 hours?

Answer:

Not necessarily. Factors to consider would be the availability of those on the overtime desired list and the operational timeframe available in which to accomplish the work.

16. If it were necessary that all employees (overtime desired list and non-overtime desired list) work 2

hours overtime; must the overtime desired list employees be provided 2 additional hours of work?

Answer:

If there were no operational timeframes or constraints which had first required scheduling to include non-overtime desired list employees, then those available overtime desired list employees would be entitled to 2 additional hours of overtime work. *

17. Would it be considered a violation if an employee not on the overtime desired list were required to work overtime when those on the list have been scheduled to work 12 hours on a particular workday?

Answer:

No.

18. What is the preferred method to indicate those employees interested in working in excess of 10 hours in a day?

Answers:

The preferred method would be to annotate those employees' names on the overtime desired list by use of an asterisk.

19. In view of the provisions of the overtime memorandum, should an addendum to the present quarter's overtime desired list, i.e., that which is in effect on January 19, 1985, be posted for signing by employees who wish to work more than 10 hours a day?

Answer:

This should be discussed with the local union. Locally arrange an interim method to allow a brief period for redesignation by employees.

20. After exhausting the names of the employees on the overtime desired list desiring to work 12 hours, can those "10 hour employees" be forced to work 12?

Answer:

Yes; before using employees not on the overtime desired list.

21. Is an employee permitted to volunteer to work in excess of 12 hours per day?

Answer:

No, except in the month of December.

22. Is an employee permitted to volunteer to work in excess of 60 hours in a service week?

Answer:

No, except in the month of December.

23. Is an employee permitted to volunteer to work the 7th day in a service week if the total hours for the week do not exceed 60 hours? *

Answer:

No, except in the month of December.

24. Is an employee permitted to volunteer to work overtime on more than 4 of the 5 scheduled days?

Answer:

No, except in the month of December. *

25. Can an employee work overtime on 5 or more consecutive days?

Answer:

Yes. For example, an employee could work overtime on 4 consecutive scheduled days and on one non-scheduled day.

26. When a full-time employee is called back to work does the penalty pay provision apply?

Answer:

Yes. Penalty Overtime Pay is paid whenever the total work and paid leave hours exceed 10 hours on a service day.

27. Must employees on the ODL be used for 4 hours of overtime on their scheduled workdays prior to using non-ODL employees for any overtime?

Answer:

Yes, unless there are no ODL employees available to work the needed overtime.

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

Answer:

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 hours for overtime calculations, "Holiday Leave Pay" does count towards the 56 and 60 hour limits.

29. If non-ODL employees are required to work overtime are they entitled to Penalty Overtime Pay for all overtime hours worked?

Answer:

No, they are only entitled to Penalty Overtime Pay if the hours worked are in contravention of the restrictions in Article 8, Section 5.F.

30. Article 8, Section 4.E states "...employees will receive penalty overtime pay for all work in excess of..." What is the intent of the word "work"?

Answer:

The term "work," as used in Section 4.E, means a combination of work hours and paid leave hours. *

31. Does an employee, who studied a scheme off-the-clock and who became qualified and was placed into the duty assignment, retroactively receive Penalty Overtime Pay for those hours in contravention of the restrictions in Article 8, Section 5.F?

Answer:

Yes, if the hours spent studying were on or after January 19, 1985, for full-time employees, and after the September, 1985 implementation date for part-time employees.

32. Article 8, Sections 4.D and 4.E apply to full-time regular and part-time flexible employees. How are part-time regular employees handled?

Answer:

For Penalty Overtime Pay purposes, PTRs will be treated the same as part-time flexible employees, with the same effective date in September, 1985.

33. Although employees on the ODL are limited to no more than 12 hours work per day or 60 hours in a service week, how is payment made for work in excess of those limits?

Answer:

Penalty Overtime Pay rules will apply. However, no pyramiding of overtime rates will occur.

34. Article 8, Section 5 refers to "full-time employees" and "full-time regular employees", is there a difference for the application of the Penalty Overtime Pay provisions?

Answer:

No, the Penalty Overtime Pay provisions for full-time employees are applicable to full-time regular and full-time flexible schedule employees.

35. RE: Memorandum. What does the sentence, "In the event these principles are contravened, the appropriate correction shall not obligate the employer to any monetary obligation, but instead will be reflected in a correction to the opportunities available within the list," mean?

Answer:

Where we are not obligated to a monetary payment by the earlier Memorandums, which deal with the administration of the overtime desired lists; we are not further obligated by the 1984 Memorandum.

36. Is it permissible to exceed the 12 or 60 limits to complete a guarantee period?

Answer:

No, the employee should be considered unavailable. However, the employee should be allowed to fulfill a guarantee period if the employee is working. *

37. If we must work a full-time employee, who already has worked 56 hours, on a non-scheduled can we work the employee 4 hours and pay 4 hours guarantee pay at the regular overtime rate?

Answer:

Yes, the employee is entitled to be paid as if the entire day was worked. Therefore, the last 4 hours would be Guarantee Overtime Pay. *

38. Do paid leave hours for part-time employees count towards the 10 and 56 hour limits?

Answer:

Yes, this is the same as for full-time employees.

39. If an employee's non-scheduled day falls within the holiday schedule period, may that employee be scheduled for more than 8 hours on that non-scheduled day?

Answer:

No.

40. In excluding the month of December from the penalty overtime provisions, is it intended that the December time period be the same as under the previous Agreement?

Answer:

Yes.

41. Do employees from another schedule, working a temporary assignment in the PS schedule, become eligible for the penalty overtime provisions of the PS schedule?

Answer:

No. Employees temporarily assigned to the PS schedule carry with them the rules for the schedule from which assigned.

CRR 89-04

APPENDIX

September 1989

LABOR RELATIONS
MR. FRANK DELELLA
931-5030 FAX

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE UNITED STATES POSTAL SERVICE
AND
THE AMERICAN POSTAL WORKERS UNION, AFL-CIO
AND
THE NATIONAL ASSOCIATION OF LETTER CARRIERS, AFL-CIO

The United States Postal Service, the American Postal Workers Union, AFL-CIO, and the National Association of Letter Carriers, AFL-CIO, hereby agree to resolve the following issues which remain in dispute and arise from the application of the overtime and holiday provisions of Articles 8 and 11 of the 1984 and 1987 National Agreements. The parties agree further to remand those grievances which were timely filed and which involve the issues set forth herein for resolution in accordance with the terms of this Memorandum of Understanding.

12 Hours In A Work Day and 60 Hours In A Service Week
Restrictions

The parties agree that with the exception of December, full-time employees are prohibited from working more than 12 hours in a single work day or 60 hours within a service week. In those limited instances where this provision is or has been violated and a timely grievance filed, full-time employees 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. The employment of this remedy shall not be construed as an agreement by the parties that the Employer may exceed the 12 and 60 hour limitation with impunity.

As a means of facilitating the foregoing, the parties agree that excluding December, once a full-time employee reaches 20 hours of overtime within a service week, the employee is no longer available for any additional overtime work. Furthermore, the employee's tour of duty shall be terminated once he or she reaches the 60th hour of work, in accordance with Arbitrator Mittenthal's National Level Arbitration Award on this issue, dated September 11, 1987, in case numbers H4N-NA-C 21 (3rd issue) and H4C-NA-C 27.

931-5030

September 1989APPENDIXGER 89-04Holiday Work

The parties agree that the Employer may not refuse to comply with the holiday scheduling "pecking order" provisions of Article 11, Section 6 or the provisions of a Local Memorandum of Understanding in order to avoid payment of penalty overtime.

The parties further agree to remedy past and future violations of the above understanding as follows:

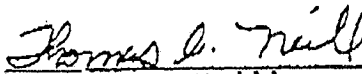
1. Full-time employees and part-time regular employees who file a timely grievance because they were improperly assigned to work their holiday or designated holiday will be compensated at an additional premium of 50 percent of the base hourly straight time rate.
2. For each full-time employee or part-time regular employee improperly assigned to work a holiday or designated holiday, the Employer will compensate the employee who should have worked but was not permitted to do so, pursuant to the provisions of Article 11, Section 6, or pursuant to a Local Memorandum of Understanding, at the rate of pay the employee would have earned had he or she worked on that holiday.

The above settles the holiday remedy question which was remanded to the parties by Arbitrator Mittenthal in his January 19, 1987 decision in H4N-NA-C 21 and H4N-NA-C 24.



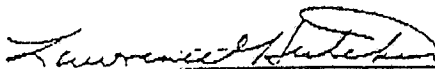
William J. Downes
Director, Office of
Contract Administration
Labor Relations Department

DATE 10/19/88



Thomas A. Neill
Industrial Relations Director
American Postal Workers
Union, AFL-CIO

DATE 10/19/88



Lawrence G. Hutchins
Vice President
National Association of
Letter Carriers, AFL-CIO

DATE 10/19/88

QUESTIONS AND ANSWERS
APRIL 25, 1985

The following is a compilation of questions and answers concerning the application of the new provisions of Article 8, Sections 4 and 5.

1. Will penalty overtime be computed manually or by the PDCs?

Answer:

Both. For timecards, penalty overtime will be computed manually and for PSDS offices, automatically through the automated system.

2. Have there been any negotiated changes to the policies concerning providing overtime work to either part-time flexible employees or full-time employees?

Answer:

No.

3. Must all employees on the overtime desired list (ODL) work 12 hours per day before an employee not on the list works any overtime?

Answer:

Not in all circumstances. All available employees on the ODL must be required to work up to 12 hours per day and 60 per week prior to utilizing an employee not on the ODL. "Available" is the key. For example, if it is not possible to complete the time critical work in the time available using only ODL employees; then employees not on the list may be used.

4. Can a full-time employee who has Friday and Saturday as nonscheduled days be required to work both nonscheduled days in the period between Sunday of week 1 through Thursday of week 2?

Answer:

Yes, assuming appropriate application of the ODL, because the employee would be working only 1 nonscheduled day in each of the service weeks.

5. Can an employee on the "10 hour" ODL be required to work an 11th hour before going to those

employees on the "12 hour" ODL?

Answer:

Yes, if no "12 hour" employees are available.

6. Article 8, Section 5.G, provides that employees not on the ODL may be required to work overtime only if all available employees on the ODL have worked up to 12 hours in a day or 60 hours in a service week. Does this mean that the supervisor will maintain a continuous tally of overtime worked?

Answer:

Local records will need to be kept.

7. In the case of overtime requirements early in a service week, how would a supervisor know whether all ODL employees would be utilized for 60 hours that week?

Answer:

Overtime is supposed to be scheduled that day based upon immediate needs.

8. Would it be considered a violation if an employee not on the ODL were required to work overtime when those on the list have been scheduled to work 12 hours on a particular workday?

Answer:

No.

9. How are those employees interested in working in excess of 10 hours in a day indicated?

Answer:

By noting those employees' names on the ODL with an asterisk.

10. After exhausting the names of the employees on the ODL desiring to work 12 hours, can those "10 hour employees" be forced to work 12?

Answer:

Yes; before using employees not on the ODL.

11. Can an employee work overtime on five or more consecutive days?

Answer:

Yes. For example, an employee could work overtime on four consecutive scheduled days and on one nonscheduled day.

12. When a full-time employee is called back to work does the penalty pay provision apply?

Answer:

Yes. Penalty overtime pay is paid whenever the total work and paid leave hours exceed 10 hours on a service day.

13. Must employees on the ODL be used for 4 hours of overtime on their scheduled workdays prior to using non-ODL employees for any overtime?

Answer:

Yes, unless there are no ODL employees available to work the needed overtime.

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

Answer:

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 hours for overtime calculations, "Holiday Leave Pay" does count towards the 56- and 60-hour limits.

15. If non-ODL employees are required to work overtime within the restrictions, are they entitled to penalty overtime pay for all overtime hours worked?

Answer:

No. They are only entitled to penalty overtime pay if the hours worked are in contravention of the restrictions in Article 8, Section 5.F.

16. Article 8, Section 4.E, states "...employees will receive penalty overtime pay for all work in excess of..." What is the intent of the word "work"?

Answer:

The term "work," as used in Section 4.E, means a combination of work hours and paid leave hours.

17. Does an employee, who studied a scheme 'off-the-clock' and who became qualified and was placed into the duty assignment, retroactively receive penalty overtime pay for those hours in contravention of the restrictions in Article 8, Section 5.F?

Answer:

Yes, if the hours spent studying were on or after January 19, 1985, for full-time employees, and after the September, 1985 implementation date for part-time employees.

18. Article 8, Sections 4.D, and 4.E, apply to full-time regular and part-time flexible employees. How are part-time regular employees handled?

Answer:

For penalty overtime pay purposes, PTRs will be treated the same as part-time flexible employees, with the same effective date in September, 1985.

19. Although employees on the ODL are limited to no more than 12-hours work per day or 60 hours in a service week, how is payment made for work in contravention of those limits?

Answer:

Penalty overtime pay rules will apply. However, no pyramiding of overtime rates will occur.

20. Article 8, Section 5, refers to "full-time employees" and "full-time regular employees." Is there a difference for the application of the penalty overtime pay provisions?

Answer:

No. The penalty overtime pay provisions for full-time employees are applicable to full-time regular and full-time flexible schedule employees.

21. RE: Memorandum. What does the sentence, "In the event these principles are contravened, the appropriate correction shall not obligate the employer to any monetary obligation, but instead will be reflected in a correction to the opportunities available within the list," mean?

Answer:


Where the USPS is not obligated to a monetary payment

by the earlier Memorandums, which deal with the administration of the ODLs; it is not further obligated by the 1984 Memorandum.

22. Do paid leave hours for part-time employees count towards the 10- and 56-hour limits?

Answer:

Yes, this is the same as for full-time employees.


Thomas J. Fritsch
U.S. Postal Service

Moe Biller
American Postal Workers,
AFL-CIO

Vincent R. Sombrotto
National Association of
Letter Carriers, AFL-CIO

OVERTIME LABOR-MANAGEMENT MEETING
 APWU Board Room
 January 29, 1985 -- 2 PM

Present:APWUUSPS

Bill Burrus
 Tom Neill
 Dick Wevodau
 Larry Gervais
 Phil Tabbita

Steve Alpern
 Bruce Evans
 Al Johnson
 Nick Barranca

Alpern: NALC not available to meet today, so we are not in position to nail down joint agreement on interpretation. We can tell you our positions and feelings and discuss concerns.

USPS wants to work out interpretation since there were things neither party thought about when language was written.

Burrus: Will it be position of USPS that NALC must always be present in future for discussion of interpretive issues?

Alpern: No. This is exception because language is so new.

NOTE: Evans passed out "Article 8 Briefing Information" which is a series of Questions and Answers prepared by USPS (attached).

Burrus: What instructions went out with this, because we have four or five separate sets of regional/district/local instructions?

Evans: Cover letter did not address the problem of Regional or local instructions.

Burrus: Referring to APWU Agenda - Item #1--Do you agree that twelve hours per day and sixty hours per week are maximums beyond which an employee may neither volunteer nor be required to work?

Alpern: Refer to #33 USPS Q & A--this is not authorization to violate but just how to handle if violation occurs.

Suggested going through USPS Q & A noting agreement or disagreement.

Burrus: We will go through Q & A paper reserving right to withhold judgment on particular issue.

Alpern: We will not hold you to anything said today off the top of your head.

Burrus: Page #1, circle 5--does part-time apply to PTF and PTR?

Alpern: Yes.

Wevodau: What about time sensitive work? Overhauls exceed restrictions--holding to restrictions will extend time it will take to do overhauls.

Burrus: We are reluctant to start making exceptions to restrictions. Page #1, circle 5--this would be improved if specific reference was made to PTR.

Neill: Examples used in Postal Bulletin show sixty-four and seventy-four hours per week. Aren't those bad examples? encourage violations?

Evans: People still have to be paid, violations or not.

Neill: What if we brought repeated violations to your attention?

Alpern: We would correct them.

Neill: Q.2--Are employees volunteering for twelve hours by signing ODL?

Evans: Those with or without asterisks could work up to twelve hours.

Alpern: Other Q and A's make it clear that asterisks go first.

Neill: Suggested improving Answer #2.

Answer #4, last sentence--how do you determine "required work"? Can a supervisor decide he wants to clean up mail or must a dispatch require it?

Gervais: For example, a supervisor keeps everyone fifteen minutes to sweep LSM rather than one hour for ODL people.

Evans/Alpern:

This is not a new problem--same as situation before--language does not change. Each decision has to be made on individual facts. If a supervisor wants to go fishing, then fifteen minutes for everyone is wrong. If supervisor has to go to another unit and no supervision will be available during an hour, it may be right.

Gervais: Then it can't be an arbitrary decision?

Alpern: Right.

Burrus: Q.5--I am reading into answer that employee may not work second non-scheduled day or fifth regular day, correct?

Johnson: This question addresses the old five consecutive day restrictions. It is meant to show that the five consecutive day restriction has been negated.

Alpern: Do you agree that the five consecutive day restriction is gone?

Burrus: Yes.

Q.7 and Q.8--"normally" implies exceptions. Previously, we understood there will be circumstances in which violations occur, but not sanctioned exceptions. "Should not" would be better than "normally."

Alpern: You would prefer the answer to read more like the answer in #9?

Burrus: Yes.

Neill: Q.10--In this example, doesn't employee work OT on five regular days in the first week?

Alpern: No. It is confusing. Employee will not work OT everyday--example was to show employee could work eleven days in a row.

Neill: Will you fix up this question?

Alpern: We will look at it. You make a legitimate point.

Burrus/Gervais:

Q.13--are you saying that supervisors can't say, "You can't work today because later in the week you may exceed limits."?

Alpern: Yes, correct.

Evans: Unless APWJ/NALG and USPS agree that it should be handled differently.

Burrus: I work Saturday-Sunday, both NS days. I have twenty-four hours already, what happens the rest of the week?

Alpern: You can't work but eight on NS day.

Gervais: What about eight hours on Saturday, eight hours Sunday, twelve hours on Monday, Tuesday and Wednesday--what happens on Thursday?

Johnson: We wouldn't work employee four hours OT on Wednesday.

Alpern: If we get to that point--and we shouldn't--we would say the eight hours per day, forty hours per week guarantee supercedes the 5.F and 5.G restrictions.

Johnson: Is it the APWU position that we only work the employee four hours on Friday and pay four-hour guarantee? even though we have work?

Burrus: Yes, once you make exceptions to twelve and sixty, you weaken maximums.

* Alpern: Real solution is to avoid this happening--what to do if it happens we may not agree on.

Gervais: You can control and avoid violations.

Alpern: What about motor vehicle driver who gets stuck on the road? We can't control that?

Burrus: A.14--"should be required to work" has connotation that ODL employee can be forced to work beyond restrictions.

Alpern: We intended the required work to be within limitations.

Neill: We suggest adding before semi-colon "within applicable limitations."

Gervais: A.15--"time frame" has to be real, not imagined.

Alpern: Yes. It will be a supervisor's judgment, but it has to be a reasonable judgment.

Burrus: How is USPS interpreting "service day"? There are two, the service day and the employee's service day.

Alpern: It would have to be the employee's service day. Otherwise, theoretically, we could work an employee sixteen plus hours straight without violating the Agreement.

Burrus: We have no disagreement with employee's service day.

Q.21 and 22--Is "volunteer" meant to stand out, implying employee could be required to work?

Alpern: No. It wasn't meant that an employee could be required to work more.

Burrus/Gervais:

Q.23 and Q.24--What contract language states an employee can't volunteer? Bloch award was not wiped out in total.

Johnson/Evans:

* We believe Bloch award was wiped out.

Gervais: We were very specific about twelve and sixty but not about exceeding 5.F restrictions.

Johnson: Is APWU saying that someone volunteering for seven eight-hour days would not violate contract?

Gervais: Yes.

Alpern: Are you saying we would have to pay penalty pay?

Gervais: Yes.

Alpern: Argued penalty pay might not be appropriate if USPS allowed voluntary work beyond 5.F restrictions. Can we go to people not at double-time before we take these volunteers?

Gervais: Contract provides if person is on ODL but not yet at double-time, you can take him first.

Alpern: Is APWU saying we have to ask persons on the list on seventh day before going off list?

Gervais: Yes and fifth regular day and more than eight hours on NS day as long as they don't exceed sixty hours.

Burrus: Bloch interpreted 5.D which we didn't change. There is no reason why Bloch interpretation should be changed.

Gervais: Penalty pay is to encourage proper staffing, and get overtime down.

Alpern: We understand your position.

Burrus: Q.26 is confusing. Question does not refer to leave but answer does.

Johnson/Alpern:

No difference whether leave or work, it counts toward hours worked.

Neill: Q.28--If employee does not work holiday, how much OT can he work?

Johnson: 20 hours.

Neill: If he does work holiday?

Johnson: 20 hours.

Gervais: Q.30--I am scheduled Saturday through Wednesday. I take LWOP on Wednesday. Can you work me OT on Thursday and Friday?

Johnson: Without penalty OT, yes.

Gervais: I'm not sure I agree.

Alpern: We're not sure. What do we do now?

Johnson: We have considered paid leave as work, but not LWOP.

Gervais: What about the opposite? I work OT on my NS days, Saturday and Sunday. Sunday goes in as penalty. I take LWOP on Friday. What would you do?

Johnson: Take out penalty pay for Sunday.

Gervais: Leave, including LWOP, has been considered work. You have to change what you have done in the past to get to where you are now.

Burrus: Q.31--I agree with this example; but you also have travel and other training situations.

Johnson: Where we were previously paying overtime, we will continue to pay. If it adds up to penalty, we will pay penalty.

Johnson/Alpern:

What if scheme study takes person over restrictions? Or someone on the list complains that they should get that OT?

Burrus/Neill:

No problem.

Alpern: Training--we have always reserved the right to schedule training. We may schedule to avoid penalty. We may also require OT to avoid excessive breaks in study schedule.

Gervais: I'm concerned that some managers will cancel training anytime penalty pay is involved.

Barranca: That would be cutting off your nose to spite your face.

Burrus: AMO person's travel time could get into OT. A person on the list might complain. I don't think that this travel, while compensable, is work for our purposes here.

Q.33--instead of "in excess," I would prefer "in violation."

Gervais: What we are saying is that if the contract is consistently violated, we don't think penalty pay is only remedy we can seek.

Gervais/Burrus:

Q.36 and Q.37--Please explain 37.

Evans: If you work four 12-hour regular scheduled days and then eight hours on NS day, then you would be paid eight hours at time-and-one-half for NS day.

Our first recourse would be not to bring person in on NS day and consider person unavailable. Our second recourse would be to work person eight hours at time-and-one-half. If we did send person home, we would pay guarantee time.

Gervais/Neill:

We need to think this one through.

Burrus: Q. 39--what do you mean?

Johnson: Employee is limited to eight hours.

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Alpern: We hold to eight-hour limit on NS day.

Burrus: December exceptions--is it your understanding that both penalty pay and work limit restrictions are waived during December?

Alpern: Yes.

Burrus: But you still hold to using ODL list before non-volunteers. What do you perceive outer limits you must work ODL employees before going off list?

Alpern: No limits. No limits previously. When list was not enough we went off list.

What do you think we should do during December?

Neill: We will have to get back to you.

Referring to point #5 on APWU Agenda--Certain local and regional Postal officials are declaring multiple Overtime Desired Lists to be inconsistent? Your position?

Evans: We don't agree that new Article 8 changes have no effect on local ODLs. There is some history that multiple ODLs are in conflict. New Article 8 language also affects them.

Burrus: If locals can agree and live with multiple lists, why would you object?

We can argue about what contract says later.

Alpern: It can cause problems. For example, if we have to go to "after tour" list and pay pealty rather than getting someone from "pre-tour" list.

Burrus: Local parties can work those things out.

* Alpern: Perhaps, but where multiple lists may not have been inconsistent before, they may be now.

Johnson: Institutionally, we have taken a position that we have problem with more than one list.

Burrus: Q.41--does this address PS going to EAS?

Johnson: Q.41 addresses EAS going to PS, not vice versa.

Gervais: Give me an example--how would EAS work in the PS schedule?

Johnson: An E&LR typist might move to Personnel Clerk in a small office because no one else is qualified to cover an absence.

Gervais: It seems that your setting up a scenario that would violate the contract (Articles 1.6 and 7.2).

Barranca: What obligation would I have to offer twelve hours (after tour) to someone on a pre-tour list?

Burrus: If I put my name on "pre-tour" list, then asterisks have no meaning unless it is four hours before tour.

Barranca: Same thing applies to "post tour" list?

Burrus: Yes. The twelve hours is handled no differently than the ten hours is handled.

Adjourned 5:15 PM.

1984 NATIONAL AGREEMENTS
USPS - APWU/NALC
USPS - NPOMH
ARTICLE 8 BRIEFING INFORMATION

The following is a brief overview of the new Article 8 provisions involving Penalty Overtime Pay:

- o The new provisions of Article 8, Hours of Work, of the 1984 National Agreements with the APWU/NALC and the Mailhandlers were effective 1/19/85.
- o New language in Article 8, Section 4 provides for a new category of pay entitled Penalty Overtime Pay. Penalty Overtime Pay is paid at two times the base hourly straight time rate. Penalty overtime pay will not be paid for any hours worked in the month of December.
- o For full-time employees, Penalty Overtime Pay is paid for all work in contravention of the restrictions identified in Article 8, Section 5.F. Article 8, Section 5.F provides that full-time employees may not be required to work:
 1. overtime on more than four of the employee's five regularly scheduled workdays.
 2. over 10 hours on a regularly scheduled workday.
 3. over 8 hours on a non-scheduled day.
 4. on more than 1 non-scheduled day.
- o Violations of any of the above requires the payment of Penalty Overtime Pay; whether or not the employee volunteers or is required to work.
- o Beginning the first full pay period after 9/1/85, excluding December, part-time employees will receive Penalty Overtime Pay for all work in excess of 10 hours in a service day or 56 hours in a service week.
- o Article 8, Section 5.G provides that full-time employees not on the ODL may not be required to work overtime until all available employees on the list have worked up to 12 hours in a day or 60 hours in a week. Employees on the ODL may not work more than 12 hours in a day or 60 hours in a service week.
- o In addition a related memorandum requires that ODLs are to be annotated to indicate those employees volunteering to work up to 12 hours on 4 of their 5 regularly scheduled workdays. The ODLs would then have 2 categories of volunteers:

1. volunteers who wish to work up to 12 hours per day
and a maximum of 60 hours per week.
2. volunteers who wish to work up to 10 hours per day
and a maximum of 56 hours per week.

Labor Relations Department
January 23, 1985

QUESTIONS AND ANSWERS

The following is a compilation of questions and answers concerning the application of the new provisions of Article 8, Sections 4 and 5.

1. Will penalty overtime be computed manually or by the FDCs?

Answer:

See Postal Bulletin 21495 dated January 14, 1985.

2. Is an employee entitled to penalty overtime pay even if that employee volunteers to work in excess of the restrictions identified in Article 8, Section 5.F?

Answer:

Yes, excluding December, any work in excess of those restrictions should be compensated at the penalty overtime pay rate; regardless of whether or not the employee volunteered. By signing the overtime desired list, an employee has indicated a willingness to work up to 12 hours in a day and 60 hours in a service week; the employee will receive penalty overtime pay for all hours which exceed the provisions of Article 8, Section 5.F.

3. Have there been any negotiated changes to the policies concerning providing overtime work to either part-time flexible employees or full-time employees?

Answer:

No.

4. Must all employees on the overtime desired list work 12 hours per day before an employee not on the list works any overtime?

Answer:

Not in all circumstances. All available employees on the overtime desired list must be required to work up to 12 hours per day and 60 per week prior to utilizing an employee not on the overtime desired list.

"Available" is the key. For example, if it is not possible to complete the required work in the time available using only overtime desired list employees; then employees not on the list may be used.

5. Does an employee's non-scheduled day of overtime affect the number of days an employee is eligible to work overtime in a service week?

Answer:

No. An employee may work overtime on one non-scheduled day and 4 of the 5 scheduled days in a service week. These days may be consecutive calendar days.

6. May letter carriers not on the overtime desired list be required to work overtime on their own route?

Answer:

Yes. Seek to use auxiliary assistance first; but when such assistance is not available, use the non-overtime desired list carrier on his/her own route.

7. Can you require a full-time employee to work overtime on more than 4 of the employee's 5 scheduled days as long as you pay penalty overtime?

Answer:

Employees work as directed by management. Normally, the employee should not be required to work overtime on the fifth day, with the exception of December.

8. Can you require a full-time employee not on the overtime desired list to work over 10 hours per day?

Answer:

Employees work as directed by management. A full-time employee not on the overtime desired list should not be required to work over 10 hours per day, with the exception of December.

9. Can you require a full-time employee to work more than 8 hours on a non-scheduled day?

Answer:

Employees work as directed by management. With the exception of December, a full-time employee should not be required to work more than 8 hours on a non-scheduled day whether or not the employee is on the overtime desired list.

10. Is it permissible to require a full-time employee who has Friday and Saturday as non-scheduled days to work Sunday of week 1 through Thursday of week 2? *

Answer:

Yes, assuming appropriate application of the overtime desired list, because the employee would be working only one non-scheduled day in each of the service weeks.

11. Can we require those employees on the "10 hour" overtime desired list to work an 11th hour before going to those employees on the "12 hour" overtime desired list?

Answer:

That may be permissible, if no "12 hour" employees are available.

12. Article 8, Section 5.G provides that employees not on the overtime desired list may be required to work overtime only if all available employees on the overtime desired list have worked up to 12 hours in a day or 60 hours in a service week. Does this mean that the supervisor will maintain a continuous tally of overtime worked?

Answer:

Local records will need to be kept.

13. In the case of overtime requirements early in a service week, how would a supervisor know whether all overtime desired list employees would be utilized for 60 hours that week?

Answer:

Overtime would be scheduled that day based upon immediate needs.

14. Can an employee who is not on the overtime desired list voluntarily work overtime if an available employee on the overtime desired list has not been directed to work more than 10 hours?

Answer:

The available overtime desired list employee should be required to work; even though it may require the payment of penalty pay.

15. If an employee not on the overtime desired list works overtime, are you obligated to work all those on the list 12 hours?

Answer:

Not necessarily. Factors to consider would be the availability of those on the overtime desired list and the operational timeframe available in which to accomplish the work.

16. If it were necessary that all employees (overtime desired list and non-overtime desired list) work 2

hours overtime; must the overtime desired list employees be provided 2 additional hours of work?

Answer:

If there were no operational timeframes or constraints which had first required scheduling to include non-overtime desired list employees, then those available overtime desired list employees would be entitled to 2 additional hours of overtime work. *

17. Would it be considered a violation if an employee not on the overtime desired list were required to work overtime when those on the list have been scheduled to work 12 hours on a particular workday?

Answer:

No.

18. What is the preferred method to indicate those employees interested in working in excess of 10 hours in a day?

Answers:

The preferred method would be to annotate those employees' names on the overtime desired list by use of an asterisk.

19. In view of the provisions of the overtime memorandum, should an addendum to the present quarter's overtime desired list, i.e., that which is in effect on January 19, 1985, be posted for signing by employees who wish to work more than 10 hours a day?

Answer:

This should be discussed with the local union. Locally arrange an interim method to allow a brief period for redesignation by employees.

20. After exhausting the names of the employees on the overtime desired list desiring to work 12 hours, can those "10 hour employees" be forced to work 12?

Answer:

Yes; before using employees not on the overtime desired list.

21. Is an employee permitted to volunteer to work in excess of 12 hours per day?

Answer:

No, except in the month of December.

22. Is an employee permitted to volunteer to work in excess of 60 hours in a service week?

Answer:

No, except in the month of December.

23. Is an employee permitted to volunteer to work the 7th day in a service week if the total hours for the week do not exceed 60 hours? *

Answer:

No, except in the month of December.

24. Is an employee permitted to volunteer to work overtime on more than 4 of the 5 scheduled days?

Answer:

No, except in the month of December. *

25. Can an employee work overtime on 5 or more consecutive days?

Answer:

Yes. For example, an employee could work overtime on 4 consecutive scheduled days and on one non-scheduled day.

26. When a full-time employee is called back to work does the penalty pay provision apply?

Answer:

Yes. Penalty Overtime Pay is paid whenever the total work and paid leave hours exceed 10 hours on a service day.

27. Must employees on the ODL be used for 4 hours of overtime on their scheduled workdays prior to using non-ODL employees for any overtime?

Answer:

Yes, unless there are no ODL employees available to work the needed overtime.

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

Answer:

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 hours for overtime calculations, "Holiday Leave Pay" does count towards the 56 and 60 hour limits.

29. If non-ODL employees are required to work overtime are they entitled to Penalty Overtime Pay for all overtime hours worked?

Answer:

No, they are only entitled to Penalty Overtime Pay if the hours worked are in contravention of the restrictions in Article 8, Section 5.F.

30. Article 8, Section 4.E states "...employees will receive penalty overtime pay for all work in excess of..." What is the intent of the word "work"?

Answer:

The term "work," as used in Section 4.E, means a combination of work hours and paid leave hours. *

31. Does an employee, who studied a scheme off-the-clock and who became qualified and was placed into the duty assignment, retroactively receive Penalty Overtime Pay for those hours in contravention of the restrictions in Article 8, Section 5.F?

Answer:

Yes, if the hours spent studying were on or after January 19, 1985, for full-time employees, and after the September, 1985 implementation date for part-time employees.

32. Article 8, Sections 4.D and 4.E apply to full-time regular and part-time flexible employees. How are part-time regular employees handled?

Answer:

For Penalty Overtime Pay purposes, PTRs will be treated the same as part-time flexible employees, with the same effective date in September, 1985.

33. Although employees on the ODL are limited to no more than 12 hours work per day or 60 hours in a service week, how is payment made for work in excess of those limits?

Answer:

Penalty Overtime Pay rules will apply. However, no pyramiding of overtime rates will occur.

34. Article 8, Section 5 refers to "full-time employees" and "full-time regular employees", is there a difference for the application of the Penalty Overtime Pay provisions?

Answer:

No, the Penalty Overtime Pay provisions for full-time employees are applicable to full-time regular and full-time flexible schedule employees.

35. RE: Memorandum. What does the sentence, "In the event these principles are contravened, the appropriate correction shall not obligate the employer to any monetary obligation, but instead will be reflected in a correction to the opportunities available within the list," mean?

Answer:

Where we are not obligated to a monetary payment by the earlier Memorandums, which deal with the administration of the overtime desired lists; we are not further obligated by the 1984 Memorandum.

36. Is it permissible to exceed the 12 or 60 limits to complete a guarantee period?

Answer:

No, the employee should be considered unavailable. However, the employee should be allowed to fulfill a guarantee period if the employee is working. *

37. If we must work a full-time employee, who already has worked 56 hours, on a non-scheduled can we work the employee 4 hours and pay 4 hours guarantee pay at the regular overtime rate?

Answer:

Yes, the employee is entitled to be paid as if the entire day was worked. Therefore, the last 4 hours would be Guarantee Overtime Pay. *

38. Do paid leave hours for part-time employees count towards the 10 and 56 hour limits?

Answer:

Yes, this is the same as for full-time employees.

39. If an employee's non-scheduled day falls within the holiday schedule period, may that employee be scheduled for more than 8 hours on that non-scheduled day?

Answer:

No.

40. In excluding the month of December from the penalty overtime provisions, is it intended that the December time period be the same as under the previous Agreement?

Answer:

Yes.

41. Do employees from another schedule, working a temporary assignment in the PS schedule, become eligible for the penalty overtime provisions of the PS schedule?

Answer:

No. Employees temporarily assigned to the PS schedule carry with them the rules for the schedule from which assigned.