

# Management Instruction



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Originating Organization & OCC Code Finance Department/FDI	
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Title  
National Agreement/FLSA Compliance

## I. PURPOSE

- A. This instruction provides field managers with additional information concerning the National Agreement/ FLSA compliance. It is being issued to ensure compliance with the policies and procedures described in Handbook EL-401, Supervisor's Guide to Scheduling and Premium Pay (March 1981).
- B. The MSC manager/postmaster must ensure that all associate offices within their sectional centers are adequately supplied with copies. Managers are responsible for assuring that this Management Instruction is made available to all supervisory personnel. Supervisors will be required to initial that this instruction was read and understood.

## II. COVERED PERSONNEL

### A. Bargaining Unit

Postal Service employees who are part of a bargaining unit subject to the National Agreement and to the "suffer or permit" and overtime provisions of the Fair Labor Standards Act (FLSA). Rural carriers are not subject to these provisions.

### B. Non-Bargaining Unit

EAS-employees whose positions are classified nonexempt.

## III. PREMIUM PAY SITUATIONS

### A. Night Differential

Night differential is a premium paid to eligible employees for all work and paid training or travel time performed between 6:00 p.m. and 6:00 a.m. (ELM 434.2).

1. Q: If an employee's schedule is revised to allow him to make up time missed due to late reporting, and the revised schedule results in night work, would the employee be entitled to night differential on this occasion?
- A: Yes. Night Differential is paid to eligible employees for all work and paid training or travel time performed between 6:00 p.m. and 6:00 a.m. (ELM 434.21).
2. Q: An employee who normally works nights has a schedule change to attend training during day hours. Would this employee still receive night differential?
- A: Yes. Eligible employees who are regularly assigned to a night tour of duty are entitled to receive an equivalent amount of night differential when rescheduled to day work due to: participation in compensable training, court/jury duty, military leave, and continuation of pay status (ELM 434.222).

#### Distribution

Headquarters, Headquarters Administrative Support Facilities, Regions, Districts, Main Post Offices, and Bulk Mail Centers.

#### Special Instructions

You may photocopy, but do not paraphrase or rewrite any of this Instruction.

Organizations listed under distribution may order additional copies. Use Form 7380, Requisition for Supplies; specify the Filing Number; and submit to the Eastern Area Supply Center.

**B. Sunday Premium**

Sunday premium is a premium paid to eligible employees for all work and paid training or travel time performed during a schedule tour that includes any part of a Sunday (ELM 434.3).

1. Q: When a full-time employee works an 8 hour schedule that includes any part of a Sunday, how many hours of Sunday premium would the employee be entitled to receive for such work?

A: The employee will receive 8 hours of Sunday premium (ELM 434.31).

2. Q: When on leave for any part of a scheduled tour that includes Sunday, are eligible employees still entitled to receive Sunday premium?

A: Except for leave granted for court or military duty on a scheduled Sunday tour, or to an employee in a continuation of pay status, employees are not entitled to Sunday premium for leave hours.

**C. Holiday Leave Pay**

Holiday leave pay is paid to eligible employees for a number of hours equal to their regular daily work schedule, not to exceed 8 hours. This holiday leave pay is instead of other paid leave to which an employee might otherwise be entitled on the holiday (ELM 434.412).

Q: May an employee receive more than 8 hours of holiday leave pay for any given holiday?

A: No. Employees receive holiday leave pay equal to their regular daily work schedule, not to exceed 8 hours (ELM 434.412).

**D. Holiday Worked Pay**

Holiday worked pay is paid to eligible employees for hours worked on a recognized holiday or for hours worked on the employee's designated holiday, except Christmas (ELM 434.511).

1. Q: Is there a posting requirement that must be met in scheduling employees to work on a holiday

or day designated as their holiday?

A: Yes. The schedule of employees for holiday work shall be posted as of the Wednesday preceding the service week in which the holiday falls (National Agreement, Article XI.6).

2. Q: Does the Postal Service incur any liability if the holiday posting requirement is not met?

A: Yes. A holiday scheduling premium equal to 50% of their base hourly straight time rate is paid to eligible employees for time actually worked on a holiday or day designated as their holiday (except Christmas) when the holiday schedule is not posted as of Wednesday preceding the service week in which the holiday falls (See ELM 434.533 for detailed information, including exceptions).

**E. Out-of-Schedule Overtime**

Out-of-schedule overtime is a premium paid to eligible full-time employees for time worked outside of and instead of the employee's regularly scheduled workday or workweek when the employee is working on a temporary schedule at the request of management (ELM 434.611).

Q: Does management have a notice requirement to meet when temporarily changing a full-time employee's schedule?

A: Yes. Notice of a temporary schedule change should be given to an employee by Wednesday of the preceding service week (See ELM 434.613 for more detailed information. Also, see 434.623 for exceptions to the obligation to pay out-of-schedule overtime).

**IV. GUARANTEED TIME**

Guaranteed time is paid time not worked under the guaranteed provisions of the National Agreement for periods when an employee has been released by a supervisor and has clocked out prior

to the end of a guaranteed period. This does not mean that an employee who generates a Form 3971, Request for, or Notification of, Absence (and is excused by management) whether for personal reasons or for illness while in a guaranteed period, will be credited with guaranteed time. In these instances, only hours actually worked would be paid. Form 3971 is solely for the purpose of documentation, and no leave would be input.

A. Q: Does a part-time flexible have any work hour guarantees?

A: Yes. Part-time flexible employees are guaranteed 4 hours work or pay on any day they are requested or scheduled to work in any installation with 200 or more work years of employment per year. At other installations they are guaranteed 2 hours work or pay when requested or scheduled to work. In addition, if a part-time flexible employee is called back to work on a day when he has completed his assignment and clocked out, he is guaranteed 4 hours of work or pay, regardless of the size of the office (National Agreement, Article VIII).

B. Q: What is a call-back, and are there any guarantees associated with it?

A: A call-back occurs when an employee completes a scheduled tour of duty and clocks out, then is notified to clock in and resume working. All bargaining unit employees are guaranteed 4 hours of work or pay, regardless of the installation size, when they are called back to work (National Agreement, Article VIII).

C. Q: What is a split shift?

A: A split shift occurs when, prior to clocking out, a part-time flexible employee is told to return to work within 2 hours. In this case, no new workhour guarantees apply. However, if prior to clocking out, the PTF is told to return to work after 2 hours, then this PTF will be guaranteed a minimum of 2 hours of work or pay.

D. Q: Can a full-time employee have a split shift?

A: No. Split shift does not apply to full-time bargaining unit employees. Once the full-time employee completes an 8 hour day and returns to work, this is considered a call-back, even if the full-time employee was scheduled to return.

E. Q: Must the 2 or 4 hour guarantee be consecutive for part-time flexibles on a day they are scheduled or called in to work?

A: No. Part-time flexible employees may have split shifts; thus dividing or breaking up the guarantee of 2 or 4 hours. However, when the scheduled break in service is more than 2 hours, the guarantee for the highest number of hours will apply (ELM 432.62).

#### V. MANAGEMENT CONTROLS

Managers must minimize the use of unauthorized time by emphasizing control procedures, and by being cognizant of the Postal policy. The following areas should be noted:

- Proper time disallowance.
- Location and access to timekeeping devices and timecards.
- Employee work schedule posting and adherence requirements.
- Five minute leeway rule.
- Employee tardiness.
- Wash-up time.
- Service talks.

#### A. Area 1 - Time Disallowance

The supervisor must prepare a written entry using Form 1017, Time Disallowance/Unauthorized Overtime Record, as to the factual basis for his knowledge that the employee was observed not working during the period of time disallowed (ELM 432.72). NOTE: Only time in excess of the scheduled tour, which is directly related to the four daily critical clock rings (begin tour; out to lunch; in from lunch; end tour) may be disallowed, providing that this time was observed as unworked time.

Q: Is management required to prepare and maintain a copy of Form 1017 for all employees?

A: Yes. A copy of Form 1017 must be prepared and maintained for all nonexempt employees. It is designed to serve as a permanent and cumulative record of disallowed time and unauthorized overtime incidence (Form 1017 must be retained indefinitely). Supervisors must prepare a Form 1017 for every bargaining unit employee assigned by completing the name and Social Security blocks. The Forms 1017 should be placed in a notebook binder by pay location or work section, i.e., carrier section, distribution clerks, window unit, etc., and secured from unauthorized access in locked file cabinets or desk drawers. Postmasters are responsible for the control of disallowed time/unauthorized overtime. In PSDS offices, reports identifying incidence of disallowed and unauthorized overtime are generated as a tool to assist management in controlling these types of time. Only time on the clock, which has been observed and documented as time not worked by the employee's supervisor, may be disallowed.

Document incidence of time disallowance and unauthorized overtime on Form 1017 as follows:

Block 1: Date of the incident.

Block 2: Pay period.

Blocks 3-6: Indicate the daily critical clock rings (begin tour; out to lunch; in from lunch; end tour) for the date of the incident.

Block 7: Total clock time in hours and hundredths.

Block 8: Total time disallowed or noted as unauthorized overtime.

Block 9: Indicate the time period disallowed or noted as unauthorized overtime.

Block 10: Initials of supervisor annotating the disallowance or unauthorized overtime.

Block 11: The date the employee was notified of the disallowance or unauthorized overtime.

Block 12: The applicable disallowance code (codes appear on the reverse of Form 1017).

Block 13: Additional remarks for the disallowance or unauthorized overtime, as necessary.

NOTE: The supervisor disallowing time must document the factual basis for his knowledge that the employee was not working during the period disallowed. Repeated occurrences should be corrected by discussion or appropriate disciplinary action, as necessary.

B. Area 2 - Timekeeping Devices and Timecards

All timekeeping devices and timecards/badges must be within supervisory view. This placement is essential to supervisors for monitoring the movement and activities of the workforce.

C. Area 3 - Schedule Posting and Adherence Requirements

1. To insure that employees adhere to their assigned schedules, management has the responsibility of posting employee work schedules on the employee bulletin board.

2. Supervisors must periodically review employee work schedules to ensure that they are consistent with the hours actually required in the duty assignments.

D. Area 4 - Five-minute Leeway Rule

Employees at installations with time recording devices are required to clock in and out on time. Congestion at time clocks can sometimes cause clock time to vary from the established work schedules. Therefore, a deviation may be allowed from the scheduled time for each clock ring, up to 0.08 hours (5 minutes). However, the sum of the deviations for the scheduled tour must not exceed 5 minutes.

1. Q: Is it required, regardless of the work situation, to allow all employees access to the time-cards/ badges a full 5 minutes prior to the start of the tour?

A: No. Managers must evaluate each individual work location to determine the amount of leeway necessary to get their employees on the clock as scheduled.

2. Q: Are there any benefits associated with the enforcement of the 5 minute leeway rule?

A: Yes. Keeping employees within a 5 minute leeway of their scheduled tours will avoid unauthorized overtime and disallowed time situations. This will save administrative costs and reduce the payment of overtime.

#### E. Area 5 - Employee Tardiness

To better control employee adherence to schedules, timecards/badges should be removed from the racks 6 minutes after the employee's scheduled starting time.

Q: When an employee is up to 30 minutes late coming to work, and his schedule is revised to permit him to make up the tardiness, is he entitled to out-of-schedule overtime?

A: No. When an employee's schedule is temporarily revised to allow him to make up time missed due to tardiness in reporting for duty, out-of-schedule overtime is not paid (ELM 434.623.c).

#### F. Area 6 - Wash-up Time

Where a local memorandum of understanding requires that employees be provided a specific amount of wash-up time, supervisors must ensure that such wash-up time is granted within the employee's scheduled work hours.

Q: Are there any circumstances in which overtime is paid during a wash-up period?

A: Yes. For example, a local memorandum of understanding provides for all employees to receive 10 minutes wash-up time before clocking out at the end of the

tour. An employee who completed an 8 hour tour scheduled to end at 3:00 p.m. worked until that time, and then spent 15 minutes washing up before clocking out. This employee would be entitled to overtime for 10 minutes of the time spent washing up.

NOTE: Time spent by an employee changing clothes or washing up after the tour ends, which exceeds the time allotted for such purposes in applicable collective bargaining agreements may be properly disallowed (F-21 146.23).

#### G. Area 7 - Service Talks

Service talks are an integral responsibility of Postal management. They should be used by every manager as a means of ensuring that employees are made aware of their obligation to adhere to assigned schedules.

#### VI. FLSA WORKWEEK

All nonexempt employees must have an FLSA workweek. The FLSA workweek is a fixed and regular recurring period of 168 hours - 7 consecutive 24 hour periods. A listing indicating each employee's name, pay location, and FLSA workweek starting time must be established and maintained indefinitely.

A. Q: Who is responsible for maintaining and updating FLSA workweek information?

A: In associate offices, the postmaster is responsible. In larger offices, the Director, Finance, is responsible.

B. Q: Must casuals have an FLSA workweek?

A: Yes (for detailed information about about FLSA workweek, see ELM 432.44 and Part VI of Handbook EL 401).