

DIRECTIVE

No.:	1145
Issued:	9/28/07
Post until:	10/28/07

SUBJECT: OVERTIME FOR NONEXEMPT EMPLOYEES

This is an update of Directive 1134 to provide clarity of collectively bargained MOU language relative to the "points" system. The updated language within this revised Directive is shown in bold/italics. This revised Directive does not modify language within the MOU, nor does it eliminate the points system.

This Directive is to clarify and reinforce fundamental components of existing nonexempt employee overtime and timekeeping policy as described in Directive 1120, issued March 1, 2007. A nonexempt employee is an hourly (non-salaried) employee, sometimes referred to as a "covered" employee. Generally these are employees covered by a collective bargaining unit, and/or employees paid on an hourly basis such as as-needed and student workers.

All overtime must be pre-approved in writing by a Bureau Chief except in the event of a major emergency as defined within Directive 1120. Overtime pay at a rate of not less than one and one-half times a nonexempt employee's regular rate of pay is required after forty hours of work in a workweek.

*Hours actually worked, including regular and overtime hours, must always be accurately recorded on employee timecards. An employee's signature on a timecard indicates that the employee accurately recorded all **regular and** overtime hours worked, and applicable variance time during the time period. All overtime hours worked, including hours for which the employee did not obtain pre-approval, will be paid in accordance with applicable legal mandates. Overtime worked that is not pre-approved will result in appropriate disciplinary action.*

Employees who are assigned work based on the "points" system must accurately record on their timecards their actual hours worked irrespective of assigned points. For example, overtime worked on a pre-plea, Disposition, or P&S report does not automatically entitle the employee to a specified number of overtime hours. The employee is only entitled to overtime pay for the hours actually worked in excess of forty hours. Hours worked in excess of forty hours in a week shall be compensated at the applicable hourly overtime rate. Regular and overtime hours are not incurred or earned based on points. Points are simply a method of workload distribution and tracking.

The Federal Fair Labor Standards Act (FLSA) considers hours devoted to work taken home or performed while at lunch by a nonexempt employee to be part of an employee's workweek hours for overtime calculation. A nonexempt employee who, based on his/her own initiative takes work home or "works through lunch", must accurately record the hours worked at home

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or during lunch on his/her timecard, and will be compensated at the applicable straight time or overtime rate. Nonexempt employees are not to take work home without pre-approval consistent with overtime approval policy. Working through lunch violates FLSA required meal break periods described within Directive 1120.

Details about the FLSA may be found at <http://www.dol.gov/esa/whd/flsa/index.htm>. If you have questions or need additional information, please let me know or contact your bureau Consultant.



Robert Smythe, Deputy Director
Administrative Services

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