



DEPARTMENT OF HUMAN RESOURCES POLICY

SUBJECT: Compensation **TITLE:** Mandatory Overtime

CODING: 30-01-30-45:00 **ADOPTED:** May 14, 2004 **Last Review:** 12/20/04

I. PURPOSE

In compliance with N.J.A.C. 8:43E-8.1 through 8.12, to set policy and procedures implementing the statutory limitations on the use of Mandatory Overtime required by hourly wage employees involved in direct patient care activities or clinical services within University facilities licensed in accordance with N.J.S.A. 26:2H-1 et seq.

II. ACCOUNTABILITY

The Vice President of Human Resources ensures compliance with this policy.

III. APPLICABILITY

This policy applies to hourly waged employees involved in direct patient care or clinical services at licensed health care facilities. It does not apply to:

Physicians; volunteers; employees who volunteer to work overtime; employees who assume on-call duty; employees participating in a surgical or therapeutic interventional procedure in progress when it would be detrimental to the patient if the employee left and employees not involved in direct patient care activities or clinical services.

IV. DEFINITIONS

Chronic Short Staffing – A situation characterized by long-standing vacancies in that portion of the facility's budgeted position master staffing plan applicable to the work unit of an employee who files a complaint where such vacancies are the result of open positions that continually remain unfilled over a period of ninety (90) days or more despite active recruitment efforts.

Direct patient care activities or clinical services – This term refers to activities/services in which an employee provides direct services to patients in a clinical setting, including the emergency department, inpatient bedside, operating room, or other clinical specialty treatment area.

Employee – means an individual employed by a health care facility who is involved in direct patient care activities or clinical services and receives an hourly wage, but shall not include a physician.

Health care facility – a health care facility licensed by the Department of Health and Senior Services pursuant to P.L. 1971, c. 136 (N.J.S.A. 26:2H-1 et seq.), a State or county psychiatric hospital, a State developmental center, or a health care service firm registered by the Division of Consumer Affairs in the Department of Law and Public Safety pursuant to P.L. 1960, c.39 (N.J.S.A. 56:8-1 et seq.).

On-call time – Refers to time spent by an employee who is not currently working on the premises of the place of employment, but who is compensated for availability, or as a condition of employment has agreed to be available, to the premises on short notice if necessary.

Reasonable efforts – Reasonable efforts means the employer shall: a) seek persons who volunteer to work extra time from all available qualified staff who are working at the time of the unforeseen emergent circumstance; b) contact all qualified employees who have made themselves available to work extra time; c) seek the use of qualified per diem staff and d) seek qualified personnel from a contracted temporary agency when such personnel is permitted by law, regulation or applicable collective bargaining agreements.

Unforeseeable emergent circumstance – An unpredictable or unavoidable occurrence at unscheduled intervals relating to health care delivery that requires immediate action.

V. REFERENCES - N.J.A.C. 8:43E-8.1 through 8.12.

VI. POLICY

A. An employee involved in direct patient care activities or clinical services will not be required to work in excess of an agreed to, predetermined and regularly scheduled daily work shift, not to exceed 40 hours per week. The agreement to work in excess of this standard by an employee will be strictly voluntary.

B. The refusal of an employee to accept such overtime work will not be grounds for discrimination, dismissal, discharge or any other penalty or employment decision adverse to the employee.

C. The requirements of A. above shall not apply in the case of an unforeseeable emergent circumstance when:

1. the overtime is required only as a last resort and is not used to fill vacancies resulting from chronic short staffing, and
2. all reasonable efforts to obtain staffing have been exhausted. However, exhaustion of reasonable efforts shall not be required in the event of any declared national, state or municipal emergency or a disaster or other catastrophic event which affects or increases the need for health care services or causes the facility to activate its emergency or disaster plan.

D. In the event an employee is required to work overtime in accordance with C. above, the employee will be granted the necessary time, up to a maximum of one (1) hour, and which may be taken on or off work premises, to arrange for the care of the employee's minor children, or elderly or disabled family members.

E. On-call time cannot be construed to permit the use of this time as a substitute for mandatory overtime.

F. Departments/units shall establish a record-keeping system documenting the circumstances where employees are required to work in excess of the agreed to, predetermined and regularly scheduled daily work shift, or in excess of forty (40) hours per week. See Exhibit A. These records shall be retained for two (2) years. The records will include, but not be limited to:

1. Employee's name and job title;
2. Employee's work area or unit;
3. Date overtime was worked, including start time;
4. Number of hours of overtime mandated;
5. Reason why overtime was mandated;
6. Employee's daily work schedule for any week in which employee is required to work overtime;
7. Description of reasonable efforts exhausted prior to requiring mandatory overtime, including
 - a. names of employees contacted to work voluntary overtime
 - b. description of efforts to secure per diem staff
 - c. list of the temporary agencies contacted
8. Signature of individual authorizing the mandatory overtime.

G. Upon requiring the employee to work overtime, managers shall provide the employee with a copy of the documentation itemized in F. above, with the exception of names of employees contacted. In place of names, the total number of employees contacted will be provided.

H. No provisions in this policy shall be construed to impair or void any collective bargaining agreement or other employer/employee contract in effect as of January 1, 2003 for licensed general hospitals and July 1, 2003 for all other facilities subject to this policy.

I. The facility will post in a conspicuous place a notice prepared by the New Jersey Department of Labor concerning New Jersey Mandatory Overtime Restrictions for Health Care Facilities (N.J.S.A. 34:11-56a et seq.).

VII. COMPLAINT PROCEDURES

A. An employee shall not be discharged or discriminated against in any manner because she/he has made a complaint regarding the requirement to work mandatory overtime, contrary to the terms of this policy, to the employer or employer's representative, the Commissioner of Labor or the state agency that licenses the facility at which the employee works.

B. Employees covered by this policy have the right to file a complaint up to two years following the date of the assigned mandatory overtime if she/he believes the overtime was assigned outside of the guidelines of this policy.

C. Complaints must be submitted in writing, via mail, to the Division of Wage and Hour Compliance of Labor Standards and Safety Enforcement of the New Jersey Department of Labor, P.O. Box 389, Trenton, NJ 08625-0389. Complaint forms are available at www.state.nj.us/labor/wc/forms/'tbd'.

VIII. EXHIBITS - Exhibit A - Mandatory Overtime Record Sheet

Under direction of the Senior Vice President for
Administration and Finance

BY: _____
Vice President for Human Resources

Mandatory Overtime Record Sheet

Provide the following information for the employee mandated to work overtime:

Employee Name: _____ Job Title: _____

Name of Work Area/Unit: _____

Date Overtime Was Mandated: _____ Start Time: _____

of O.T. Hours Mandated: _____

What was the employee's daily work schedule for the week in which overtime was mandated:

| | Start Time | End Time | | Start Time | End Time |
|-----------|---------------|-------------|----------|---------------|-------------|
| Sunday | _____ | _____ | Thursday | _____ | _____ |
| Monday | _____ | _____ | Friday | _____ | _____ |
| Tuesday | _____ | _____ | Saturday | _____ | _____ |
| Wednesday | _____ | _____ | | | |

Describe the reason why overtime was necessary: _____

The following section is intended to document efforts that were made to avoid the assignment of mandatory overtime:

1) Number of employees who were requested to work voluntary overtime: _____

2) Names of employees who were requested to work voluntary overtime:

3) Describe efforts made to secure Per Diem staff to work mandated overtime hours:

4) List temporary agencies contacted in an attempt to secure coverage for mandated overtime hours:

Overtime Authorized By

Date

Signature of Employee Working O.T.

Date