

Contract Administration Unit

Brian Renfro, Executive Vice President
Lew Drass, Vice President
Christopher Jackson, Director of City Delivery
Manuel L. Peralta Jr., Director of Safety and Health
Dan Toth, Director of Retired Members
Jim Yates, Director of Life Insurance

Overtime and pay during December

The rules governing the payment of overtime and penalty overtime are found in Article 8 of the National Agreement. This month's Contract Talk will discuss some of the exceptions to these rules.

The entitlement to penalty overtime for full-time regular and full-time flexible employees is found in Article 8, Section 5.F of the National Agreement, which states:

F. Excluding December, no full-time regular employee will be required to work overtime on more than four (4) of the employee's five (5) scheduled days in a service week or work over ten (10) hours on a regularly scheduled day, over eight (8) hours on a non-scheduled day, or over six (6) days in a service week.

The 2021 *Joint Contract Administration Manual (JCAM)* explains Article 8, Section 5.F:

Article 8.5.F applies to both full-time regular and full-time flexible employees. The only two exceptions to the work hour limits provided for in this section are for all full-time employees during the penalty overtime exclusion period (December) and for full-time employees on the ODL during any month of the year (Article 8.5.G). Both work and paid leave hours are considered "work" for the purposes of the administration of Article 8.5.F and 8.5.G.

The rules governing how part-time flexible (PTF) and city carrier assistant (CCA) letter carriers receive penalty overtime pay are found in Article 8, Section 4.E. This section requires the payment of penalty overtime to PTF and CCA letter carriers for all work in excess of 10 hours in a service day or 56 hours in a service week. Part-time regulars are in the same category as PTFs for penalty overtime purposes.

When determining the entitlement to penalty overtime pay, both the actual hours worked as well as any paid leave hours are counted. This is explained on page 8-3 of the *JCAM*, which states:

All bargaining unit employees are paid postal overtime for time spent in a pay status in excess of 8 hours in a service day and/or in excess of 40 hours in a service week. Hours in pay status include hours of actual work and hours of paid leave.

The first exception to these rules, which affects full-time, part-time and CCA letter carriers, involves the payment of penalty overtime during the month of December. In accordance with Article 8, Section 4.C, penalty overtime will not be paid for any hours worked in December. This is sometimes referred to as the "penalty overtime exclusion period."

Although Article 8, Sections 4 and 5 reference the month of December, in 1985, the national parties

agreed that the month of December referenced in these sections is understood to mean four consecutive service weeks, rather than the entire month (M-01508 in NALC's Materials Reference System). The specific range is published each year in the *Postal Bulletin* and *The Postal Record*. The penalty overtime exclusion period for calendar year 2021 will be Dec. 4 through Dec. 31 (pay periods 26 of 2021 and 1 of 2022).

The second exception during December pertains to the daily and weekly work-hour limitation. Article 8, Section 5.G provides that employees on the overtime desired list (ODL) or work assignment list (WAL) may be required to work up to 12 hours per day and 60 hours per week, except during the penalty overtime exclusion period. However, these work limits do not apply to full-time employees on the ODL or WAL during the penalty overtime exclusion period. Management may, but is not required to, assign ODL carriers to work in excess of the 12- and 60-hour limitations during the penalty overtime exclusionary period.

The national parties signed a memorandum of understanding (M-00859) on Oct. 19, 1988, which states in part:

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.

Section 432.32 of the *Employee and Labor Relations Manual (ELM)* establishes the maximum hours allowed for full-time employees not on the ODL or WAL, PTFs, and CCAs:

Except as designated in labor agreements for bargaining unit employees or in emergency situations as determined by the postmaster general (or designee), employees may not be required to work more than 12 hours in 1 service day. In addition, the total hours of daily service, including scheduled workhours, overtime, and mealtime, may not be extended over a period longer than 12 consecutive hours. Postmasters and exempt employees are excluded from these provisions.

The Step 4 settlement (M-01272) in Case Number E94N-4E-C96031540, dated Feb. 25, 1998, dictates that the limit established by *ELM* 432.32 continues to apply even during the penalty overtime exclusion period.

Similar to the previous reference that paid leave counts toward overtime, *JCAM* pages 8-19 state that the 12- and 60-hour limitations are inclusive of all hours, including any type of leave taken.

The third exception during December pertains to letter carriers on the WAL. As stated above, these carriers are available to work up to 12 hours in a day or 60 hours in a service week. Outside of the penalty overtime exclusion period, management has the right to assign an employee on the ODL to work regular overtime to avoid paying penalty overtime to a carrier on the WAL. This would limit a carrier on the WAL to 10 hours in a service day, even if additional overtime was available on their bid assignment. During December, the carrier on the WAL has the right to work the additional time over 10 hours, since penalty overtime is

not paid. This is explained on pages 8-21 of the *JCAM*, which states in part:

Management may assign an employee from the regular ODL to work regular overtime to avoid paying penalty pay to a carrier who has signed for Work Assignment overtime. This exception does not apply during the penalty overtime exclusion period (December) when penalty overtime is not paid.

The exceptions during December for penalty overtime pay and overtime provisions can cause confusion. If you have any questions related to these or other Article 8 provisions, contact your local shop steward or branch officer.

Retiree Reports

Bergen Co. Mgd., New Jersey

So I have noticed that a lot of my friends and family members have been able to work from home during this pandemic. It must be nice working at a computer in your pajamas and slippers. All of the letter carriers do not have that luxury, although the thought of seeing my carrier deliver in their PJs would certainly get my attention.

Carriers have had to deliver as usual and have had to deal with staggering start times in order to abide by social-distancing rules. Management was in charge of dictating the start times, and you know how well they have managed to screw that up.

With all the news talking about how the mail has slowed down (thank you, DeJoy), carriers have gone out and done their job every day and delivered the mail in a timely fashion as it has come in to the facilities.

As I am writing this article, I got an email from our national business agent that the Postal Service plans to hire retirees for this year's holiday season. After five minutes of laughing, I politely gave a two-word answer. I cannot say the first, but the second word is no—you can fill in the rest.

Dennis Spoto, Branch 425

Hartford, Connecticut

Our retirement dinners for Branch 86 will be in two parts after a year-plus delay. Western Connecticut, including the Danbury and Naugatuck area, will hold its event at the Amber Room of Danbury on Nov. 6. I am looking forward to see the retirees from our western towns. The remainder of the branch will apparently hold its retirement dinner in the usual facility in Southington.

Branch 86 had its annual Labor Day get-together at the Hartford Yard Goats baseball game in Hartford in mid-September. It will be good to see our membership and officers face to face again. We experienced some hot, humid weather this summer in Connecticut. Obviously, the sooner, the better for when the new postal vehicles arrive with air conditioning installed.

I know if it is hot, the desire to air out the vehicles while driving is strong. However, driving with the driver's-side door open is unsafe. Obviously, you should *not* drive with that door opened unless you are going to curbside mail rural mailboxes on a road. Please close the door when crossing an intersection or driving street to street. The children are back in school, so exercise caution when driving in residential neighborhoods and near bus stops or local schools.

Carriers contemplating retirement should make sure, if applicable, that their armed forces service time is included in the calculations. Buying back your military time if need be as soon as possible is a wise course of action.

Military veterans get free admission at the Big E fair on Opening Day in Massachusetts.

Other postal retirees not otherwise eligible can purchase on a periodic basis directly through mail Part B of Medicare. The price is about \$445 every few months.

Enjoy your holidays. The stores are filling up with Halloween items and candy already.

Ed Mulrenan, Branch 86

Paterson, New Jersey

During the summer months, our local branch takes our monthly union meetings off the schedule so that members can enjoy summer months (July and August) with their families. Summers go quick here in New Jersey, having only short amounts of warm months for all of

us to enjoy. There are no union meetings during these two months.

Retirees continue to meet every third Wednesday, even during the summer months, so that we can be fully focused and engaged in our union functions, information and solidarity. These breakfasts are held at the Hawthorne Diner in Hawthorne. Please call our union office (973-279-7356) for more specific and detailed information. These monthly meeting breakfasts were started by Branch 120 President Murray Ross back during the strike years of the '70s and continue today.

Our then-President Ross (currently living in California) is alive and well; we still to this day appreciate his knowledge, expertise and experience in union matters. Branch 120 continues to stay in touch with Murray and wish him well for many more years to come. We thank Murray for starting this trend of monthly retiree breakfast meetings and hope to continue it for a very long time. It is this true union solidarity and many years of membership that keeps our union strong.

Joseph Murone, Branch 120

Phoenix, Arizona

Howdy to all from still-sunny Arizona.

Our hearts and prayers go out to all who have had to suffer the wrath of the hurricane in the East and the fires out West. I encourage those who can to send support to the NALC Disaster Relief Foundation.

Our branch has lost a retiree who started out in Branch 36 and stood tall with Vince Sombrotto and others during the 1970 strike. Sorry to say that Pedro Pereira Jr. has passed away.

We owe so much to all those who risked their livelihoods to fight for justice for all letter carriers.

Al Linde, Branch 576