

Contract Administration Unit

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Penalty overtime pay, assignment of overtime and work-hour limitations during December

During the month of December, there are some exceptions to the normal rules regarding the payment of penalty overtime, the assignment of certain overtime, and work-hour limitations for some individuals. At times these exceptions can be confusing, so it is important to understand the contractual language that addresses them.

The rules governing the payment of penalty overtime are found in Article 8 of the National Agreement. The rate of pay for penalty overtime is governed by the provisions of Article 8, Section 4.C, which states:

C. Penalty overtime pay is to be paid at the rate of two (2) times the base hourly straight time rate. Penalty overtime pay will not be paid for any hours worked in the month of December.

(The preceding paragraph, Article 8.4.C., shall apply to City Carrier Assistant Employees.)

While this provision applies to all letter carriers, determining when the penalty overtime rate is applicable depends on the classification of the employee. The entitlement to penalty overtime for full-time regular and full-time flexible employees is addressed in Article 8, Section 4.D. of the National Agreement, which states:

D. Penalty overtime pay will be paid to full-time regular employees for any overtime work in contravention of the restrictions in Section 5.F.

Article 8, Section 5.F 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 explanation for this section is found on page 8-17 of the 2022 *Joint Contract Administration Manual (JCAM)*:

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) employees receive penalty overtime pay are found in Article 8, Section 4.E, which states:

E. Excluding December, part-time flexible employees will receive penalty overtime pay for all work in excess of ten (10) hours in a service day or fifty-six (56) hours in a service week.

(The preceding paragraph, Article 8.4.E., shall apply to City Carrier Assistant Employees.)

This language 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 (PTRs) are in the same category as PTFs for penalty overtime purposes.

“The penalty overtime exclusion period for calendar year 2022 will be Dec. 3 through Dec. 30 (pay periods 26 of 2022 and 1 of 2023).”

When determining the entitlement to penalty overtime pay, both the actual hours worked and 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 all 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 commonly referred to as the penalty overtime exclusion period.

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

(continued on next page)

During December (continued)

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 period is published each year in the *Postal Bulletin* and *The Postal Record*. The penalty overtime exclusion period for calendar year 2022 will be Dec. 3 through Dec. 30 (pay periods 26 of 2022 and 1 of 2023).

The second exception during December pertains to the daily and weekly work-hour limitations. Article 8, Section 5.G provides that full-time employees on the Overtime Desired List (ODL) or Work Assignment List may be required to work up to, and are limited to, 12 hours in a day or 60 hours in a service week. However, these work limits do not apply to these carriers 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.

“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.”

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 Work Assignment List, PTRs, 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.

Step 4 settlement (M-01272) clarifies that the 12-hour limit established by *ELM* 432.32 continues to apply to full-time employees not on the ODL or Work Assignment List, PTRs, PTFs and CCAs even during the penalty overtime exclusion period.

Similar to the previous reference that paid leave counts toward overtime, page 8-19 of the *JCAM* states 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 Work Assignment List. As stated above, excluding December, Work Assignment List 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 Work Assignment List. This can limit a carrier on the Work Assignment List to 10 hours in a service day, even if additional overtime is available on his or her bid assignment. This is explained on page 8-21 of the *JCAM*:

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.

During the penalty overtime exclusion period, the carrier on the Work Assignment List has the right to work the additional time over 10 hours, since penalty overtime is not paid. Keep in mind, this exception applies only when management wants to assign a carrier from the ODL to work the overtime. Management still retains the right to utilize a letter carrier at the straight-time rate or a PTF or CCA at the straight-time or overtime rate prior to assigning additional overtime to a carrier on the Work Assignment List. The explanation for this provision is found on pages 8-20 and 8-21 of the *JCAM*, which states in part:

Management may always assign another carrier to perform the work at the straight-time rate rather than assigning overtime to a carrier on the Work Assignment List. Management may also assign PTFs and CCAs at the straight-time or overtime rate (up to the *ELM* limitations).

If you have any questions related to these or any other contractual provisions, contact your local shop steward or branch officer. Complete copies of the “M” documents referenced in this article can be found in NALC's Materials Reference System at nalc.org/mrs.