

December exceptions

This month's Contract Talk will explain the exceptions to Article 8 of the National Agreement that occur during the month of December. These include the payment of penalty overtime, work-hour limits, the assignment of overtime, and non-scheduled days.

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.

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 found 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)*, which states:

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, 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 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 2022 *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 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 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 2025 will run from Nov. 29 through Dec. 26, 2025 (pay period 26-2025 and 1-2026).

Article 8, Section 4.G is a new section of the contract added to the 2023 National Agreement in accordance with Arbitrator Dennis R. Nolan's award dated March 21, 2025. This section states:

G. For any hours worked beyond twelve (12) hours in a service day or sixty (60) hours in a service week the employee is to be paid at the rate of two and one-half (2 1/2) times the base hourly straight time rate.

(The preceding paragraphs, Article 8.4.F. and 8.4.G., shall apply to City Carrier Assistant Employees.)

Unlike the penalty overtime exclusion period, there are no exceptions to Section 4.G. This provision, which provides pay at two and a half times the base hourly straight-time rate for work beyond 12 hours a day or 60 hours a week for all letter carriers, is applicable even during the penalty overtime exclusion period.

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 an

(continued on next page)

December exceptions (continued)

(continued from previous page)

overtime desired list (ODL) or the Work Assignment List (WAL) may be required to work up to 12 hours in a day or 60 hours in a service week unless they volunteer to work beyond those limits. However, these work limits do not apply to ODL and WAL letter carriers during the penalty overtime exclusion period. Management can, but is not required to, assign ODL letter carriers to work in excess of the 12- and 60-hour limitations during the penalty overtime exclusionary period.

The maximum hours allowed for PTFs, CCAs and full-time employees not on an ODL or the WAL are not governed by the provisions of Article 8, Section 5.G. The rules defining the maximum number of work hours for these letter carriers are found in Section 432.32 of the *Employee and Labor Relations Manual (ELM)*, which states:

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.

Since letter carriers typically have a 30-minute lunch break, the maximum number of paid hours allowed under this section of the *ELM* is limited to 11½ hours per service day. The Step 4 settlement (M-01272) in case number E94N-4E-C96061540 dated Feb. 25, 1998, clarifies that the 12-hour limit established by Section 432.32 of the *ELM* continues to apply even during the penalty overtime exclusion period.

Similar to the previous reference that paid leave counts toward overtime, the 2022 *JCAM*, on page 8-19, states that the 12- and 60-hour limitations are inclusive of all hours, including any type of leave taken.

The third, and newly added December exception, deals with non-scheduled days for CCAs and PTFs. Article 8, Section 3, added to the 2023 National Agreement, now provides that CCAs and PTFs will be guaranteed a minimum of one non-scheduled day each service week, except during the penalty overtime exclusion period. This change is echoed in the MOU Re: New Employee Experience, Retention and Mentoring Program, found on page 258 of the 2023 National Agreement, which states in part:

All City Carrier Assistant (CCA) and Part-time Flexible (PTF) city letter carriers will be guaranteed a minimum of one (1) nonscheduled day each service week, except during the

penalty overtime exclusion period. This exception to receiving at least one nonscheduled day each service week during the penalty overtime exclusion period does not apply to CCAs or PTFs during Weeks 1 through 8 following completion of the Carrier Academy.

New CCAs and PTFs who are in Weeks 1 through 8 following their completion of the Carrier Academy (Week 1 begins the week the new employee begins on-the-job instruction training), still must receive a non-scheduled day each service week, even during the penalty overtime exclusion period. Beginning Week 9 and beyond, CCAs and PTFs are not guaranteed a non-scheduled day during the penalty overtime exclusion period.

The fourth exception during December pertains to letter carriers on the WAL. As stated above, excluding December, WAL 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 an ODL to work at the regular overtime rate to avoid paying penalty overtime to a carrier on the WAL. This can limit a carrier on the WAL to 10 hours in a service day, even if additional overtime was available on their bid assignment. This is explained on page 8-21 of the 2022 *JCAM*, which states:

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, letter carriers on the WAL have the right to work the additional time over 10 hours, up to 12 hours, since penalty overtime is not paid. Keep in mind, this exception applies only when management wants to assign a carrier from 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 regular overtime rate, prior to assigning additional overtime to a letter carrier on the WAL. Page 8-21 of the 2022 *JCAM* explains:

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 other Article 8 provisions, contact your local shop steward or branch officer. Complete copies of the “M” documents referenced in this article and the 2022 *JCAM* are available on the NALC website at nalc.org.