

DCPAS/HROPS/CEW Program Office Policy Statement

Premium Pay for Training Activities

The payment of premium pay for time spent in training activities is limited by section 4109, of title 5, United States Code (5 U.S.C. 4109). Where section 4109 imposes the restriction on payment of premium pay, section 4118 authorizes the Office of Personnel Management (OPM) to issue regulations to implement that restriction. Implementing regulations are provided at section 410.402 of title 5, Code of Federal Regulations (5 CFR 410.402); and include circumstances that allow limited exceptions to the restriction on payment of premium pay for training. Nonexempt employees, those covered by the Fair Labor Standards Act (FLSA), are subject to additional exceptions that will be addressed separately.

IMPORTANT: *To support payment of premium pay for training related activities, the specific exception to the restrictions provided by the referenced section of the CFR must be identified and clearly applicable to the particular training event. This documentation must be accomplished before payment for the premium pay is authorized.*

An employee given training during a period of duty for which he or she is already receiving premium pay for overtime, night, holiday, or Sunday work shall continue to receive that premium pay. However, due to the restrictions imposed and the limited exceptions, it is rarely appropriate to authorize premium pay for training-related activities that take place outside regular working hours.

Training at Night

An employee given training at night because situations that he or she must learn to handle occur only at night shall be paid the applicable premium pay.

Cost Savings

An employee receiving training on overtime, on a holiday, or on a Sunday because the costs of the training, premium pay included, are less than the costs of the same training confined to regular work hours, shall be paid the applicable premium pay.

Continuation of Premium Pay

Continuation of annualized premium pay, law enforcement availability pay, premium pay for standby duty, or premium pay for administratively uncontrollable overtime (AUO) continues through periods of training. Continued payment of premium pay for standby duty and AUO, however is limited by regulation (5 CFR 550.162(c)).

Firefighter Overtime Pay

Pay for a firefighter covered by 5 CFR 550, subpart M, will not be reduced if participation in agency-sanctioned training reduces the number of hours worked, either base or overtime, during a work week.

Office of OPM Exception

An employee given training during a period not otherwise covered by a provision of 5 CFR 410.402 may be paid premium pay when the employing agency has been granted an exception to the stated restrictions by the U.S. Office of Personnel Management.

Classroom Preparation Activities

Training related tasks that frequently cause concern among students include required study, reading, or online activities that must take place outside the “classroom” environment, after regular duty hours. For most employees, these tasks clearly fail to meet the requirements for an exception, as noted above. The activities are not limited to performance at night, few employees receive annualized premium pay or firefighter pay, and frequently, for employees participating in residential training, such as the Civilian Expeditionary Workforce (CEW) training at Camp Atterbury, the lodging and meals are provided on a military base without additional cost to the employee or employing activity. When the food and lodging costs are not readily identifiable, the determination that the reduction of time spent at the course would reduce the total costs would be difficult to support. Absent clear documentation of a cost reduction, cost savings does not provide a basis to justify the payment of premium pay.

FLSA Employees

Additional exceptions to the limitations noted above may be applicable to employees subject to (nonexempt from) the Fair Labor Standards Act (FLSA). In accordance with 5 CFR 551.423:

Time spent in training outside regular working hours shall be considered hours of work for nonexempt employees (and therefore subject to payment of overtime) if:

- The employee is directed to participate in the training by his or her employing agency (the employee’s performance or continued retention in his or her current position will be adversely affected if the employee does not participate in such training); and
- The purpose of the training is to improve the employee’s performance of the duties and responsibilities of his or her current position (as distinguished from upward mobility training or developmental training to provide an employee the knowledge or skills needed for a subsequent position in the same career field).