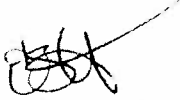




Contract Administration

TO: Executive Board Members
Council Leaders

FROM: Elizabeth S. Hough 
Director of Contract Administration

DATE: May 13, 2010

RE: Employee Overtime Limitation

The Director of State Operations and the Director of the Budget have jointly issued a directive to all agencies imposing an immediate moratorium on overtime. The directive prohibits overtime for all employees with the exception of employees providing direct care or performing functions necessary for the preservation of health and safety. That directive is attached.

We will need to be vigilant about situations in which overtime eligible employees may feel pressured or cajoled into continuing to work excess hours but not reporting the time. Given this immediate prohibition on overtime, we are likely to see an increase in circumstances where this is occurring.

Under the Fair Labor Standards Act, it is not sufficient to simply notify employees that overtime will not be paid to avoid the obligation to pay overtime. If a supervisor is “suffering or permitting the work” the overtime must be paid. In other words, if management is aware that overtime work is occurring and is not taking affirmative action to stop the work, the employee must still be paid. If you become aware that an employee has been denied pay for overtime that was worked with management’s knowledge, a grievance should be filed alleging a violation of Article 7.16 of the 2007-2011 Agreement.

We are also likely to see an increase in efforts to flex the work week of overtime eligible employees on short notice to avoid the payment of overtime worked. As a reminder, Article 32.4 provides:

There shall be no rescheduling of days off or tours of duty to avoid the payment of overtime compensation except upon two weeks' notice.

Again, if you become aware of a circumstance where employees are begin required to adjust fixed work schedules to avoid overtime payment without appropriate notice, a grievance should be filed alleging a violation of Article 32.4 of the 2007-2011 Agreement.

Cc: Field Services Staff



David A. Paterson
Governor

STATE OF NEW YORK
EXECUTIVE DEPARTMENT
DIVISION OF THE BUDGET
STATE CAPITOL
ALBANY, NEW YORK 12224

Valerie Grey
Director of State
Operations

Robert L. Megna
Director of the Budget

MEMORANDUM

TO: Agency Commissioners

May 13, 2010

FROM: Valerie Grey
Robert Megna

SUBJECT: Employee Overtime Limitation

In order to significantly reduce expenditures related to State employee overtime, effective immediately in all Executive Branch agencies there is a moratorium on the scheduling of overtime hours or coverage. This moratorium applies to annual and non-annual salaried employees.

Overtime will be permitted only for employees who are in positions requiring the provision of direct care services or the performance of functions necessary for the preservation of health or safety.

The Division of the Budget will be reviewing payroll data to monitor overtime hours and expenditures to ensure compliance with this directive.

Please alert your Executive staff to this important and urgent effort.