

Published on *CHCOC* (<https://chcoc.gov>)

[Home](#) > Excusing Federal Employees on Monday, December 24, 2018

Excusing Federal Employees on Monday, December 24, 2018

Wednesday, December 19, 2018
CPM 2018-22



The Director

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

MEMORANDUM FOR: HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

From: MARGARET M. WEICHERT, ACTING DIRECTOR

Subject: Excusing Federal Employees on Monday, December 24, 2018

The President has issued an Executive order excusing executive branch non-Postal Service employees from duty on Monday, December 24, 2018, with pay and without a charge to leave, except those who, in the judgment of the head of the agency, cannot be excused for reasons of national security, defense, or other public need. (See [Attachment 1](#).) For pay and leave purposes, December 24, 2018, will be treated as falling within the scope of statutes and Executive orders governing holidays.

Most employees who are excused from duty on December 24th as a result of the President's Executive order will receive the basic pay they would have received if no Executive order had been issued. An employee who was previously scheduled to take annual leave on December 24th will not be charged annual leave (or any other form of paid leave, compensatory time off, or credit hours). (This policy does not apply to employees who receive annual premium pay for standby duty (5 U.S.C. 5545(c)(1)) or firefighters who are covered by special pay provisions (5 U.S.C. 5545b).) An employee who is required to work nonovertime hours on December 24th is generally entitled to holiday premium pay (5 U.S.C. 5546(b)). Refer to the attachment for further guidance.

If an employee has scheduled "use or lose" annual leave for December 24, 2018, and is unable to reschedule that leave for use before the end of the leave year (i.e., for most employees, January 5, 2019), the leave will be forfeited. When "use or lose" leave is forfeited under these conditions, the law (5 U.S.C. 6304(d)) does not permit restoration of the leave.

The attached questions and answers provide pay and leave administration guidance. (See [Attachment 2](#).) For additional information, see the U.S. Office of Personnel Management's (OPM's) fact sheets on —

Q3. Which employees are entitled to an “in-lieu-of” holiday when a holiday falls on a nonworkday?

A3: All full-time employees, including those on flexible or compressed work schedules, are entitled to an “in-lieu-of” holiday when a holiday falls on a nonworkday. In such cases, the employee’s holiday generally is the basic workday immediately preceding the nonworkday. A basic workday for this purpose includes a day when part of the basic work requirement for an employee under a flexible work schedule is planned or scheduled to be performed. Limited exceptions apply, please see our fact sheet for further guidance: <https://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/fact-sheets/holidays-work-schedules-and-pay/>

Part-time and intermittent employees are not entitled to an “in-lieu-of” holiday when a holiday falls on a nonworkday. Part-time and intermittent employees are not entitled to receive premium pay for working on a designated “in-lieu-of” holiday provided to full-time employees. See Q7 for further guidance.

Q4. What days are the “in-lieu-of” holidays for an employee whose basic work schedule does not include Monday, December 24 and/or Tuesday, December 25?

A4. When a holiday falls on a nonworkday outside a full-time employee’s basic workweek, he or she is entitled to an “in-lieu-of” holiday. Except when the holiday falls on Sunday, the day to be treated as the “in-lieu-of” holiday is the workday immediately preceding the nonworkday. (See 5 U.S.C. 6103(b) and section 3(a) of Executive Order 11582, February 11, 1971.)

Example 1—Tuesday - Saturday Work Schedule (Monday is a scheduled nonworkday, Tuesday a scheduled workday)

Since the employee has a regularly scheduled nonworkday on Monday, December 24, and a regularly scheduled workday on Tuesday, December 25, the “in-lieu-of” holiday for Monday, December 24 would be the preceding workday — in this example, Saturday, December 22. There is no need for an “in-lieu-of” holiday for Tuesday, December 25, as it is a scheduled workday and provided for as a holiday.

Example 2 — Thursday - Monday Work Schedule (Monday is a scheduled workday, Tuesday a scheduled nonworkday)

Since the employee has a regularly scheduled workday on Monday, December 24, and a regularly scheduled nonworkday on Tuesday, December 25, Monday becomes a nonworkday and there is no need for an “in-lieu-of” holiday for that day, as Monday, December 24 is now a holiday. The “in-lieu-of” holiday for Tuesday, December 25 would be the preceding workday — in this example, Sunday, December 23. It is the Tuesday, December 25, holiday for which an “in-lieu-of” holiday needs to be determined, since it is a nonworkday in this example.

Example 3 — Wednesday – Sunday Work Schedule (Both Monday and Tuesday are scheduled nonworkdays)

Since the employee has regularly scheduled nonworkdays on both Monday, December 24, and Tuesday, December 25, the “in-lieu-of” holiday for December 24 would be the immediately preceding workday (in this example, Sunday, December 23) and the “in-lieu-of” holiday for December 25 would be the next preceding workday (in this example, Saturday, December 22).

Q8. How many hours of basic pay are employees entitled to receive for a holiday (including an “in-lieu-of” holiday provided to full-time employees)?

A8. Full-Time Employees

Full-time employees under a standard work schedule (8 hours a day, 40 hours a week) are excused from 8 hours of nonovertime work, which are considered part of the 40-hour basic workweek.

Part-Time Employees

A part-time employee is entitled to a holiday when the holiday falls on a day when he or she would otherwise be required to work or take leave. This does not include overtime work. Part-time employees who are excused from work on a holiday receive their rate of basic pay for the hours they are regularly scheduled to work on that day. As provided in Q7 above, part-time employees are not entitled to an “in-lieu-of” holiday.

Compressed Work Schedule

A full-time or part-time employee on a compressed work schedule who does not work because of a holiday receives his or her rate of basic pay for the number of hours he or she was scheduled to work on the holiday. For example, if a holiday falls on a 10-hour basic workday, the employee’s holiday is 10 hours. (See 5 CFR 610.406.)

Flexible Work Schedule

A full-time employee on a flexible work schedule is entitled to 8 hours of pay on a holiday when the employee does not work. (See 5 U.S.C. 6124.) A part-time employee under a flexible work schedule is generally excused from duty for the number of hours of his or her basic work requirement (i.e., nonovertime hours) on that day, not to exceed 8 hours. (See 5 CFR 610.405.)

For more information on compressed work schedules and flexible work schedules under Alternative Work Schedules (AWS), please see our AWS handbook at <https://www.opm.gov/policy-data-oversight/pay-leave/reference-materials/handbooks/alternative-work-schedules/>

Three Holidays in the Same Pay Period

Three holidays—December 24 and December 25, 2018, and January 1, 2019—fall within the same pay period beginning December 23, 2018, and ending January 5, 2019, for most employees under a standard Monday through Friday work schedule.

For full-time employees on a “5/4-9” flexible work schedule (or other flexible work schedules under which employees work more than 8 hours a day) there may be up to 3 holidays in the same pay period, dependent upon whether an “in-lieu-of” holiday is provided due to the legal holiday falling on an employee’s nonwork day (i.e., an AWS day off). An employee under a “5/4-9” work schedule must make arrangements to work extra hour(s) during other regularly scheduled workdays or take annual leave, earned credit hours, compensatory time off for overtime, or compensatory time off for travel in order to fulfill the 80-hour biweekly work

Part-time employees who are required to perform work during a regularly scheduled basic tour of duty on a holiday are entitled to receive holiday premium pay for up to 8 hours of nonovertime work (or up to the maximum number of nonovertime hours in their compressed work schedule) on a holiday. Holiday premium pay is not applicable for part-time employees for work performed on an “in-lieu-of” holiday provided to full-time employees.

Q12. How is holiday premium pay calculated?

A12. For each hour of holiday work, employees receive holiday premium pay. Holiday premium pay is equal to an employee’s rate of basic pay. Employees who are required to work on a holiday receive their rate of basic pay, plus holiday premium pay, for each hour of holiday work. (See 5 U.S.C. 5546(b).)

Compensatory Time Off and Overtime Pay

Q13. May an employee who is required to work during his or her regularly scheduled basic (i.e., nonovertime) tour of duty on a holiday earn compensatory time off instead of holiday premium pay for that work?

A13. No. An employee must receive holiday premium pay for work performed during his or her regularly scheduled basic (i.e., nonovertime) tour of duty (e.g., 8:00 a.m. to 4:30 p.m.) on a holiday.

Compensatory time off is provided in lieu of overtime pay for irregular or occasional overtime work (or, when permitted under agency flexible work schedule programs, in lieu of overtime pay for regularly scheduled or irregular or occasional overtime work). (See 5 U.S.C. 5543 and 6123(a).) However, because a holiday is considered part of a full-time employee’s regular 40-hour workweek (or 80 hours biweekly for employees on certain kinds of flexible or compressed work schedules), work performed during a regularly scheduled basic (i.e., nonovertime) tour of duty on a holiday is not considered overtime work.

Q14. What if an employee performs work outside his or her regularly scheduled basic (i.e., nonovertime) tour of duty (e.g., 8:00 a.m. to 4:30 p.m.) on a holiday? How is he or she compensated for that work?

A14. An employee who performs work outside his or her regularly scheduled basic tour of duty (i.e., overtime work) on a holiday is compensated at the applicable overtime pay rate or through compensatory time off (in appropriate circumstances). (See fact sheets on [Title 5 Overtime Pay](#) and [Compensatory Time Off](#).)

Night Pay

Q15. What pay will General Schedule (GS) employees receive if they perform work at night on a holiday?

A15. GS employees are entitled to night pay for regularly scheduled work (i.e., work scheduled in advance of the administrative workweek) between 6:00 p.m. and 6:00 a.m. (See fact sheet on [Night Pay for General Schedule Employees](#).) Night pay for GS employees is equal to 10 percent of the employee’s hourly rate of basic pay. Night pay is earned for regularly scheduled

Q19. Are employees entitled to holiday premium pay for the time they spend in work-related travel on a Federal holiday?

A19. Employees generally are not entitled to holiday premium pay for the time they spend in work-related travel during holiday hours of their tours of duty. Holiday premium pay is paid only to employees who perform work on a holiday. (See 5 U.S.C. 5546(b).) The criteria in 5 U.S.C. 5542(b)(2) must be used to determine whether travel time is hours of work for holiday premium pay purposes. (These are the same criteria used to determine travel time as hours of work for title 5 overtime pay purposes. The criteria are also found in 5 CFR 550.112(g).)

Time spent in a travel status is not hours of work for the purpose of paying premium pay, including holiday premium pay, unless it meets one of the criteria in 5 U.S.C. 5542(b)(2)(B) for crediting irregular or occasional hours of work for travel. The criteria state that time spent in a travel status away from the official duty station is not hours of employment unless the travel —

- involves the performance of work while traveling (e.g., employment as a truck driver);
- is incident to travel that involves the performance of work while traveling (e.g., “deadhead” travel performed by a truck driver to return an empty truck after unloading);
- is carried out under arduous and unusual conditions (e.g., on unpaved roads); or
- results from an event that could not be scheduled or controlled administratively by any individual or agency in the executive branch of the Government (e.g., training scheduled solely by a private firm or a job-related court appearance required by a court subpoena).

Note 1: This guidance applies to both Fair Labor Standards Act (FLSA) exempt and nonexempt employees. The provisions on travel time as hours of work for FLSA overtime pay purposes under 5 CFR 551.422 do not apply to the payment of holiday premium pay. Although most employees do not receive holiday premium pay for time spent traveling on a holiday, they continue to be entitled to pay for the holiday in the same manner as if the travel were not required.

Note 2: Under 5 U.S.C. 5542(b)(2)(A), time spent traveling away from the official duty station is also hours of employment if the time spent is within the days and hours of an employee’s regularly scheduled administrative workweek. However, this does not apply to travel time on a holiday for holiday premium pay purposes because an employee’s regularly scheduled administrative workweek includes only periods of time in which an employee is regularly scheduled to work. Travel time during holiday hours generally is not work time and, therefore, does not fall within an employee’s regularly scheduled administrative workweek. (See the definition of “regularly scheduled administrative workweek” in 5 CFR 610.102.)

Compensatory Time Off for Travel**Q20. If an employee is required to travel on a Federal holiday, is the employee entitled to receive compensatory time off for travel?**

A20. Compensatory time off for travel may be earned by an employee only for time spent in a travel status away from the employee’s official duty station when such time is not otherwise compensable. Although most employees do not receive holiday premium pay for time spent traveling on a holiday, an employee continues to be entitled to pay for the holiday in the same manner as if the travel were not required. Thus, an employee may not earn compensatory time off for travel during basic (i.e., nonovertime) holiday hours because the employee is entitled to