



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Overtime Program,
Department of Law and Public
Safety, Division of State Police

Administrative Appeal

CSC Docket No. 2021-441

ISSUED: NOVEMBER 6, 2020 (SLD)

The Division of Agency Services (Agency Services), on behalf of the Department of Law and Public Safety (DL&PS), Division of State Police, Office of Forensic Sciences, requests that the provisions of *N.J.A.C.* 4A:3-5.3 be relaxed to provide individuals in the non-limited, non-exempt (NE) titles of Forensic Scientist 1, DL&PS and Forensic Scientist 2, DL&PS, cash compensation at one and one-half times the regular rate for hours worked between 35 and 40 hours.

By way of background, the Civil Service Commission (Commission) had relaxed the provisions of *N.J.A.C.* 4A:3-5.3 until December 31, 2020 in the attached decision, *In the Matter of Overtime Program, Department of Law and Public Safety, Division of State Police* (CSC, decided January 15, 2020), to allow DL&PS to utilize 2018 Capacity Enhancement and Backlog Reduction (CEBR) funds for the overtime of the NE employees in the DNA laboratory, within the Office of Forensic Sciences. In that decision, the Commission noted absent different circumstances, such additional requests would not be approved as it was the third such request from DL&PS to allow for overtime to address the backlog within the DNA laboratory. *See In the Matter of Overtime Program, Department of Law and Public Safety, Division of State Police* (CSC, decided December 7, 2016), and *In the Matter of Overtime Program, Department of Law and Public Safety, Division of State Police* (CSC, decided January 16, 2019).

In its instant request, DL&PS explains that due to the ongoing COVID-19 pandemic and restrictions placed on the laboratory system during these unprecedented times, the staff earmarked to work the overtime hours were unable to work a sufficient number of hours to qualify for overtime, leaving funds unspent and

no impact on reducing the backlog of DNA cases. In this regard, it notes that the lab was completely closed for a period of time due to the Governor's Executive order, and currently staff working in the lab must be scheduled to work with social distancing considerations because the work does not lend itself to work from home. As a result, it was only able to work one month of the allotted 12-month extension before the effects of the ongoing pandemic caused the reduction of staff and the suspension of overtime. DL&PS maintains that once the COVID-19 restrictions are lifted, overtime can resume. However, as it is currently unknown when this will occur, it requests that the provisions of *N.J.A.C.* 4A:3-5.3 be relaxed an additional 12 months, to December 31, 2021. Based on these circumstances, Agency Services indicated its support of DL&PS' request.

CONCLUSION

N.J.A.C. 4A:3-5.5(a)1 and *N.J.A.C.* 4A:3-5.5(b)1 provide, in pertinent part, that employees in NE titles are entitled to overtime compensation at the rate of one and one-half times their regular rate of pay "for time worked in excess of 40 hours per week" with the approval of the Commission or designee. However, per *N.J.A.C.* 4A:3-5.3(d)2, for work performed in excess of 35 hours per week, up to 40 hours, employees in NE titles are only entitled to comparable amounts of time off, not cash overtime compensation.

N.J.A.C. 4A:1-1.2(c) provides that a rule may relaxed for good cause, in a particular circumstance, in order to effectuate the purposes of Title 11A of the New Jersey Statutes Annotated.

Due to the receipt of the grant funds to address an approximate backlog of 1,200 cases that still need analysis, which has been earmarked for overtime, it is appropriate to permit NE employees who work more than 40 hours in a week to receive cash overtime per *N.J.A.C.* 4A:3-5.5(a)1 and *N.J.A.C.* 4A:3-5.5(b)1. Further, under these particular facts and circumstances, and in light of the continuing COVID-19 pandemic, it is also appropriate to relax the provisions of *N.J.A.C.* 4A:3-5.3 and permit the DL&PS, Division of State Police, Office of Forensic Sciences, to provide individuals in the titles of Forensic Scientist 1, DL&PS and Forensic Scientist 2, DL&PS, cash compensation at one and one-half times the regular rate for hours worked between 35 and 40 hours until December 31, 2021. However, as noted previously absent different circumstances, such additional requests will not be approved.

ORDER

Therefore, it is ordered that this request be granted.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 4TH DAY OF NOVEMBER 2020

Deirdre L. Webster Cobb

Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

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Attachment

c: Valerie Stutesman
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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Overtime Program,
Department of Law and Public
Safety, Division of State Police

Rule Relaxation

CSC Docket No. 2020-1614

ISSUED: January 22, 2020 (SLD)
(Corrected Copy)

The Division of Agency Services (Agency Services), on behalf of the Department of Law and Public Safety (DL&PS), Division of State Police, Office of Forensic Sciences, requests that the provisions of *N.J.A.C. 4A:3-5.3* be relaxed to provide individuals in the non-limited, non-exempt (NE) titles of Forensic Scientist 1, DL&PS and Forensic Scientist 2, DL&PS, cash compensation at one and one-half times the regular rate for hours worked between 35 and 40 hours.

In its request, DL&PS explains that it is currently utilizing 2017 Capacity Enhancement and Backlog Reduction (CEBR) funds for the overtime of the NE employees in the DNA laboratory, within the Office of Forensic Sciences as per the Civil Services Commission's (Commission) prior decision in *In the Matter of Overtime Program, Department of Law and Public Safety, Division of State Police* (CSC, decided January 16, 2019), which had relaxed the provisions of *N.J.A.C. 4A:3-5.3* through December 31, 2019. It notes that as a result of the 2017 CEBR grant and the Commission's prior decision, 1986 cases were completed and 777 Combined DNA Index System (CODIS) hits were issued. DL&PS notes that it has now received grant funding from the Fiscal Year 2018 CEBR grant. It notes that a portion of these grant funds (\$385,100) was earmarked for overtime to address the approximately 1,200 backlog cases pending analysis in the DNA laboratory and to improve the turn-around time. DL&PS notes that the CEBR grant is expected to take approximately 12 months to complete and it has an expiration date of December 31, 2020. It anticipates that 25 staff members will utilize the overtime. DL&PS argues that if its request is not granted, the DNA laboratory will be prevented from expending the grants before the impending completion date and

would necessitate the return of the funds to the federal government. Therefore, it requests that the provisions of *N.J.A.C. 4A:3-5.3* be relaxed through December 31, 2020. Based on these circumstances, Agency Services indicated its support of DL&PS' request.

CONCLUSION

N.J.A.C. 4A:3-5.5(a)1 and *N.J.A.C. 4A:3-5.5(b)1* provide, in pertinent part, that employees in NE titles are entitled to overtime compensation at the rate of one and one-half times their regular rate of pay "for time worked in excess of 40 hours per week" with the approval of the Civil Service Commission or designee. However, per *N.J.A.C. 4A:3-5.3(d)2*, for work performed in excess of 35 hours per week, up to 40 hours, employees in NE titles are only entitled to comparable amounts of time off, not cash overtime compensation.

N.J.A.C. 4A:1-1.2(c) provides that a rule may relaxed for good cause, in a particular circumstance, in order to effectuate the purposes of Title 11A of the New Jersey Statutes Annotated.

Due to the receipt of the grant funds to address an approximate backlog of 1,200 cases that still need analysis, which has been earmarked for overtime, it is appropriate to permit NE employees who work more than 40 hours in a week to receive cash overtime per *N.J.A.C. 4A:3-5.5(a)1* and *N.J.A.C. 4A:3-5.5(b)1*. Further, under these particular facts and circumstances, it is also appropriate to relax the provisions of *N.J.A.C. 4A:3-5.3* and permit the DL&PS, Division of State Police, Office of Forensic Sciences, to provide individuals in the titles of Forensic Scientist 1, DL&PS and Forensic Scientist 2, DL&PS, cash compensation at one and one-half times the regular rate for hours worked between 35 and 40 hours until December 31, 2020.

However, absent different circumstances, such additional requests will not be approved. In this regard, it must be noted that this is the third such request from DL&PS to allow for overtime to address the backlog within the DNA laboratory. See *In the Matter of Overtime Program, Department of Law and Public Safety, Division of State Police* (CSC, decided December 7, 2016), and *In the Matter of Overtime Program, Department of Law and Public Safety, Division of State Police* (CSC, decided January 16, 2019). Thus, while it appears that the usage of overtime to attempt to combat the backlog in the DNA laboratory has been somewhat effective, it is recommended the DL&PS explore additional methods, such as increased staffing, to combat any future backlogs.

ORDER

Therefore, it is ordered that this request be granted.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 15TH DAY OF JANUARY, 2020

Deirdre' L. Webster Cobb

Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

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