



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 15<sup>TH</sup> DAY OF JANUARY, 2020

*Deirdre' L. Webster Cobb*

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