



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. 2023-2422

ISSUED: August 29, 2023 (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) has previously relaxed the provisions of *N.J.A.C.* 4A:3-5.3 to allow DL&PS to utilize 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 the most recent decisions, the Commission noted absent different circumstances, such additional requests would not be approved as it was one of many such requests from DL&PS to allow for overtime to address the backlog within the DNA laboratory. *See also, In the Matter of Overtime Program, Department of Law and Public Safety, Division of State Police* (CSC, decided December 7, 2016); *In the Matter of Overtime Program, Department of Law and Public Safety, Division of State Police* (CSC, decided January 16, 2019); *In the Matter of Overtime Program, Department of Law and Public Safety, Division of State Police* (CSC, decided January 15, 2020), *In the Matter of Overtime Program, Department of Law and Public Safety, Division of State Police* (CSC, decided November 4, 2020).

In its instant request, DL&PS explains that a new requirement of the Fiscal Year 2023 CEBR grant requires that a minimum allocation of 40% of the total

award must be for the analysis of samples for entry into CODIS. DL&PS maintains that in order to maximize grant funding, a portion of the funds must be earmarked for overtime to address the approximately 1,400¹ backlog cases pending analysis in the DNA laboratory. DL&PS notes that the grant guidelines impose a September 30, 2025 expiration date. Based on these circumstances, Agency Services indicated its support of DL&PS' request and requested that *N.J.A.C. 4A:3-5.3* be relaxed until April 30, 2024.

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 be 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 1,400 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 increased backlog, 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 April 30, 2024. If at that time the backlog still exists and the grant funds are still available, DL&PS can petition the Commission for an extension to September 30, 2025. However, as noted previously, absent different circumstances, 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.

¹ In *In the Matter of Overtime Program, Department of Law and Public Safety, Division of State Police* (CSC, decided November 4, 2020), the noted backlog was 1,200 cases.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 23RD DAY OF AUGUST, 2023

Allison Chris Myers

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Chairperson
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