



STATE OF NEW JERSEY

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

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

CSC Docket No. 2019-1792

Rule Relaxation

ISSUED: January 18, 2019 (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.

In its request, Agency Services explains that the DNA laboratory, within the Office of Forensic Sciences, has received grant funding to perform an internal quality control audit of all data entered into the Combined DNA Index System (CODIS). Additionally, grant funding was also received and earmarked for overtime to address the approximately 1,300 backlog cases pending analysis in the DNA laboratory. In order to complete both, DL&PS requests that the provisions of *N.J.A.C.* 4A:3-5.3 be relaxed per above. It indicates that this would affect approximately 29 employees in the above-noted titles for tasks associated with the grants. Further, DL&PS indicates that the grant guidelines impose a December 2019 expiration date, therefore, it requests that the provisions of *N.J.A.C.* 4A:3-5.3 be relaxed through December 31, 2019. 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 perform an internal quality control audit of CODIS and the payment of overtime necessary to address an approximate backlog of 1,300 cases that still need analysis, 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, 2019.

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 16TH DAY OF JANUARY, 2019



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Christopher Myers
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Mirella Bednar
Jessica Chianese
Kelly Glenn