



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. 2025-1663

Administrative Appeal

ISSUED: March 19, 2025 (SLD)

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 and Forensic Scientist 2,¹ cash compensation at one and one-half times the regular rate for hours worked between 35 and 40 hours. DL&PS also requests that a special project rate be set for the non-limited (NL) title of Forensic Scientist 3.

By way of background, the Civil Service Commission (Commission) has previously relaxed the provisions of *N.J.A.C. 4A:3-5.3* for the titles of Forensic Scientist 1 and 2, 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 that 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 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 May 3, 2017); *In the Matter of Overtime Program, Department of Law and Public Safety, Division of State Police* (CSC, decided

¹ In the prior decisions, the titles were referred to as Forensic Scientist, DL&PS. However, the name of the title series was changed to Forensic Scientist.

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 the Matter of Overtime Program, Department of Law and Public Safety, Division of State Police* (CSC, decided November 17, 2021); *In the Matter of Overtime Program, Department of Law and Public Safety, Division of State Police* (CSC, decided August 23, 2023); and *In the Matter of Overtime Program, Department of Law and Public Safety, Division of State Police* (CSC, Decided March 20, 2024).

In the March 20, 2024 decision, *In the Matter of Overtime Program, Department of Law and Public Safety, Division of State Police, supra*, DL&PS explained that a new requirement of the Fiscal Year 2023 CEBR grant required that a minimum allocation of 40% of the total award must be for the analysis of samples for entry into CODIS. DL&PS maintained that a portion of the funds (\$515,000) was earmarked for overtime to address the approximately 1,260 backlog cases pending analysis in the DNA laboratory. DL&PS noted it would take until nearly the grant expiration date of September 30, 2025, to deplete all of the earmarked funds. Based on the foregoing, the Commission granted the request to relax the provisions of *N.J.A.C.* 4A:3-5.3 and permit the DL&PS to provide individuals in the titles of Forensic Scientist 1 and Forensic Scientist 2, cash compensation at one and one-half times the regular rate for hours worked between 35 and 40 hours until September 30, 2025, or until all \$515,000 of the earmarked funds were expended, whichever occurred first.

In the instant request, DL&PS requests that the provisions of *N.J.A.C.* 4A:3-5.3 be relaxed until September 30, 2027. Specifically, it notes that the DNA Laboratory has experienced a significant increase in workload, which has resulted in a current backlog of approximately 1,100 cases as of February 2025. DL&PS also argues that as a result of an amended Attorney General Directive 2023-1, mandating both prospective and retroactive testing of all Sexual Assault Forensic Examination (SAFE) kits submitted to law enforcement, that the amount of its backlog is expected to increase and is projected to take up to 10 years to fully address without additional resources. DL&PS argues that it relies heavily on federal grant funding and has been awarded nearly \$2.5 million that is specifically allocated for overtime compensation for DNA analysis. Specifically, \$705,912 from the FY23 CEBR grant expiring on September 30, 2025; \$225,389 from the FY24 CEBR grant, expiring on September 30, 2026; \$300,000 from the FY23 SAKI grant, expiring on September 30, 2026; and \$1,240,000 from the FY24 SAKI grant, expiring on September 30, 2027. Based on the foregoing, DL&PS requests that the provisions of *N.J.A.C.* 4A:3-5.3 be relaxed until the expiration of all “existing and future grant funding.”

Additionally, DL&PS requests that a special project rate be set for anyone in the NL title of Forensic Scientist 3 who work in excess of 35 hours per week on this

issue.² Specifically, it requests that the rate be set at one and one-half times the regular hourly rate (\$66.72) of step 10 of salary range P28 (\$121,891.47) the range for the Forensic Scientist 2 title, for an hourly rate of \$100.08.³ DL&PS requests that this special project rate continue until the expiration of “all existing and future grant funding.” It argues that the Forensic Scientist 3 position is integral to DNA casework operations, as these individuals are required to conduct administrative reviews of completed casework to ensure compliance with quality assurance standards and accreditation requirements; and supervise the Forensic Scientist 1 and Forensic Scientist 2 staff during overtime hours to maintain proper oversight and adherence to laboratory protocols. It contends that without this supervision, the effectiveness and efficiency of the overtime work funded by grants would severely be impacted.

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:3-5.3 provides in pertinent part that:

- (a) Employees in the following groups may be eligible for overtime compensation for work performed beyond their regular work hours, but not more than 40 hours:

* * *

² In *In the Matter of Overtime Program Department of Law and Public Safety, Division of State Police* (CSC, decided July 24, 2024), DL&PS requested that the provisions of *N.J.A.C.* 4A:3-5.3 be relaxed to provide individuals in the non-limited (NL) title of Forensic Scientist 3, cash compensation at one and one-half times the regular rate for hours worked in excess of 35 hours. However, the Commission denied the request, finding that NL employees shall not be eligible for cash overtime, except as provided in *N.J.A.C.* 4A:3-5.7(d); and that DL&PS had not established that there has been or was an ongoing exceptional emergency. Specifically, the Commission noted that the possibility that some of the five employees currently serving in the title of Forensic Scientist 2, and who were currently receiving the overtime compensation, may be promoted, did not establish an ongoing “exceptional emergency.” Nor was there a basis to relax the provisions of *N.J.A.C.* 4A:3-5.7(d) under those circumstances. The Commission further explained that DL&PS could compensate those NL employees through either a provision for flexible work time patterns or a grant of comparable amounts of time off, on an hour for hour basis. See *N.J.A.C.* 4A:3-5.6(b)2. Alternatively, it indicated that DL&PS could request approval from the Chairperson or designee to provide a special project rate compensation pursuant to *N.J.A.C.* 4A:3-5.7(e)2.

³ Agency records indicate that as of this decision, all individuals in the title of Forensic Scientist 3 are currently at step 8, salary range R30 (\$124,978.66) or above.

3. Employees in non-limited titles (NL, NE) who meet unusual work time requirements, at the discretion of the appointing authority.

* * *

- (c) An employee shall be eligible for overtime compensation under this section only when:

1. The employee is in pay status for the full number of hours in his or her regular workweek;
2. The employee works at least one hour beyond the regular workweek or approved alternative workweek program of 70 hours in a 14 day work period, for employees in 35 hour fixed workweek titles (35, 3E); and
3. The work is covered by the job specification for the employee's title, except for emergencies as provided in *N.J.A.C. 4A:3-5.7(d)*.

- (d) Overtime compensation under this section shall be paid as follows:

* * *

2. Employees in non-limited titles (NL, NE) who meet unusual work time requirements may, at the discretion of the appointing authority, be compensated through either a provision for flexible work patterns or a grant of comparable amounts of time off to a maximum of one hour for each hour of unusual work time, provided that employees serving as a commissioner or department head; an assistant or deputy commissioner; a division director or equivalent; and employees in exempt positions in titles which are not represented in collective negotiations with established salary ranges at or above range 32, and in such exempt positions in titles with single rates or no range who are receiving a salary at or above the first step of such ranges, shall not be granted such compensation. In no event shall employees in non-limited titles have any entitlement to cash overtime compensation.

N.J.A.C. 4A:3-5.6(a)3 provides, in pertinent part, that employees in NL titles shall not be eligible for cash overtime compensation, except as provided in *N.J.A.C.* 4A:3-5.7(d). *N.J.A.C.* 4A:3-5.7(d) provides, in pertinent part that, eligibility for overtime compensation for exceptional emergencies shall be as follows:

1. When an agency head declares an exceptional emergency involving a critical service disruption that poses a danger to health or safety, he or she may authorize:
 - i. Cash overtime compensation for non-limited employees in titles with established salary ranges below range 32 performing emergency related work. For these circumstances employees in non-limited titles shall be deemed to have a 40 hour workweek.
 - ii. Overtime compensation for work not covered by the job specification. *See N.J.A.C.* 4A:3-5.3(c)3.

N.J.A.C. 4A:3-5.2 defines “Cash overtime compensation” as payment at a rate of one and one-half times the hourly proration of the employee's base salary, or one and one-half times the employee's regular rate, as specified.

N.J.A.C. 4A:3-5.7(e)2 provides, in pertinent part that, eligibility for special project rate compensation for NL employees who perform extraordinary work activities on a limited or periodic basis necessitating work time beyond the general workweek in the same capacity from which the employee is regularly employed may be paid special project rates as approved by the Chairperson.

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.

With regard to the request for the NE titles of Forensic Scientist 1 and Forensic Scientist 2, due to the receipt of the nearly \$2.5 million in grant funds that is specifically allocated for overtime compensation to address the backlog of DNA cases that still need analysis, it is appropriate to permit those 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 additional specifics provided, 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 and Forensic Scientist 2, cash compensation at one and one-half times the regular rate for hours worked between 35 and 40 hours until September 30, 2027, or until all of

the earmarked funds from the grants listed previously are expended, whichever occurs last.

DL&PS also requests to set a special project rate for those individuals in the NL title of Forensic Scientist 3, who work in excess of 35 hours per week on the backlog of DNA cases, pursuant to *N.J.A.C.* 4A:3-5.7(e)2. Specifically, it requests that the rate be set at the rate of one and one-half times the regular hourly rate (\$66.72) of step 10 of salary range P28 (\$121,891.47), the salary range for the Forensic Scientist 2 title, for an hourly rate of \$100.08. DL&PS requests that this special project rate continue until the expiration of “all existing and future grant funding.” It argues that the Forensic Scientist 3 position is integral to DNA casework operations, as these individuals are required to conduct administrative reviews of completed casework to ensure compliance with quality assurance standards and accreditation requirements; and supervise the Forensic Scientist 1 and Forensic Scientist 2 staff during overtime hours to maintain proper oversight and adherence to laboratory protocols. Therefore, based on foregoing it is appropriate to establish a special project compensation rate for the above noted title with a maximum hourly rate of \$100.08.⁴ However, at no point shall an individual in the title of Forensic Scientist 3 receive this rate *if* that rate is more than one and one-half times their current hourly rate. If the \$100.08 rate is more than one and one-half times their current hourly rate, then those individuals in the Forensic Scientist 3 title shall receive a special project compensation rate that is one and one-half times their current hourly rate, up to \$100.08.

Finally, the issue of the workweek classification of the Forensic Scientist title series is being referred to the Division of Agency Services and the Division of Human Resource Information Services for consideration of a new workweek designation. In this regard, the Commission notes that DL&PS has made the same request to relax the provisions of *N.J.A.C.* 4A:3-5.3 since 2016. As such, it is appropriate that this agency review the title series for any necessary changes to the workweek designation.

ORDER

Therefore, it is ordered that the request 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 and Forensic Scientist 2, cash compensation at one and one-half times the regular rate for hours worked between 35 and 40 hours until September 30, 2027, or until all of the earmarked funds from the grants listed in this decision are expended, whichever occurs last.

It is also ordered that a special project compensation rate with a maximum of \$100.08 per hour be created to permit the DL&PS, Division of State Police, Office of

⁴ It is noted that this hourly rate is less than one and a half times the hourly rate of any individual currently serving in the title of Forensic Scientist 3.

Forensic Sciences, to provide individuals in the titles of Forensic Scientist 3, cash compensation who work in excess of 35 hours per week until September 30, 2027, or until all of the earmarked funds from the grants listed in this decision are expended, whichever occurs last. If the \$100.08 rate is more than one and one-half times their current hourly rate, then those individuals in the Forensic Scientist 3 title shall receive a special project compensation rate that is one and one-half times their current hourly rate, up to \$100.08.

Finally, the issue of the workweek classification of the Forensic Scientist title series is being referred to the Division of Agency Services and the Division of Human Resource Information Services for review.

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 19TH DAY OF MARCH, 2025



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