



We work for America every day

# NFFE Forest Service Council Master Agreement News You Can Use

Originally Released on:

**March 16, 2011**



## Master Agreement Article 18, 19 - Pay During Training

**Answers 1 and 2 are for non-exempt employees.**

The following are questions regarding training outside the local area:

1. Employees are automatically given 8 hours per day for training, so what if the training only goes for 6 or 7 hours a day?

**Employees are guaranteed 8 hours regardless of whether less than 8 hours actually occurs (MA Article 18.7.h.(2)). Note that this applies only for training at a location other than the employee's home unit (see annotation). If the training runs longer than 8 hours per day or 40 hours per week, non-exempt employees get overtime.**

2. Can credit hours be earned in training status?

**Credit hours may not be earned while an employee is in training (MA Article 18.3.e.(1)(c)). This is not to say they cannot earn credit hours for other work done outside of training, e.g., normal work performed in the evening.**

**Note: Although employees attending training that exceeds 2 days shall be temporarily placed on a schedule consisting of five 8-hour days (MA Article 18.7.h.(2)), this is linked to the 8-hour guarantee, above, and is not the same as a standard schedule under Article 18.2 (or we would have called it a "standard schedule").**

3. Generally, exempt employees are not entitled to overtime for training - although they may be if the requirements of 5 CFR Sec. 410.402 are met

**Exempt employees are not completely excluded from overtime during training, but the conditions under which they get it are very narrow and described in 5 CFR Sec. 410.402. Specifically, exempt employees may receive overtime for training if:**

**a. The training is conducted during regularly-scheduled overtime hours; that is, they would have been working overtime anyway;**

**- or -**

**b. It costs the Agency less to pay the employee overtime to complete the training than it would if the training were confined to regular work hours.**

### CFR Citations

CFR language is in blue, explanatory comments are in black. 5 CFR 550, 410, and 551, all contribute to understanding this. Part 550 applies for exempt employees and Part 551 for non-exempt employees. Both of these refer you to Part 410 for some circumstances.

\* \* \*

## Master Agreement News You Can Use

**5 CFR 550.111(i): An employee is not entitled to overtime pay under this subpart for time spent in training, except as provided in §410.402 of this chapter. [Note: this applies to exempt employees only]**

\* \* \*

**5 CFR 551.423 Time spent in training or attending a lecture, meeting, or conference.**

**[Note: this Section applies to non-exempt (FLSA-covered) employees only]**

**(a) Time spent in training, whether or not it is under the purview of part 410 of this chapter, shall be administered as follows:**

**(1) Time spent in training during regular working hours shall be considered hours of work.**

**(2) Time spent in training outside regular working hours shall be considered hours of work if:**

**(i) The employee is directed to participate in the training by his or her employing agency; and**

**(ii) The purpose of the training is to improve the employee's performance of the duties and responsibilities of his or her current position.**

**(3) Time spent in apprenticeship or other entry level training, or internship or other career related work study training, or training under the Veterans Recruitment Act (5 CFR part 307) outside regular working hours shall not be considered hours of work, provided no productive work is performed during such periods, except as provided by § 410.402(b) of this chapter and paragraphs (f) and (g) of § 551.401.**

\* \* \*

**CFR 410.402 Paying premium pay. [Note: This Section is referenced by both Sections above -- you need to start with them to see how this applies to your situation.]**

**(a) Prohibitions. Except as provided by paragraph (b) of this section, an agency may not use its funds, appropriated or otherwise available, to pay premium pay to an employee engaged in training by, in, or through Government or non-government facilities.**

**(b) Exceptions. The following are excepted from the provision in paragraph (a) of this section prohibiting the payment of premium pay:**

**(1) Continuation of premium pay. An employee given training during a period of duty for which he or she is already receiving premium pay.**

**(2) Training at night. An employee given training at night because situations that he or she must learn to handle occur only at night shall be paid by the applicable premium pay.**

**(3) Cost savings. An employee given training on overtime, on a holiday, or on a Sunday because the costs of the training, premium pay included, are less than the costs of the same training confined to regular work hours shall be paid the applicable premium pay.**

**(4) Availability pay. An agency shall continue to pay availability pay during agency-sanctioned training to a criminal investigator who is eligible for it under 5 U.S.C. 5545a and implementing regulations. Agencies may, at their discretion, provide availability pay to investigators during periods of initial, basic training. (See 5 CFR 550.185 (b) and (c).)**

**(5) Standby and administratively uncontrollable duty. An agency may continue to pay annual premium pay for regularly scheduled standby duty or administratively uncontrollable overtime work, during periods of temporary assignment for training as provided by 5 CFR 550.162(c).**

**(6) Firefighter overtime pay. [Note: These paragraphs apply only to GS-0081 series employees and employees whose regular tour of duty averages at least 106 hours per biweekly pay period]**

**(i) A firefighter compensated under part 550, subpart M, of this chapter shall receive basic pay and overtime pay for the firefighter's regular tour of duty (as defined in §550.1302 of this**

## Master Agreement News You Can Use

chapter) in any week in which attendance at agency-sanctioned training reduces the hours in the firefighter's regular tour of duty.

(ii) The special pay protection provided by paragraph (b)(6)(i) of this section does not apply to firefighters who voluntarily participate in training during non-duty hours, leave hours, or periods of excused absence. It also does not apply if the firefighter is entitled to a greater amount of pay based on actual work hours during the week in which training occurs.

(7) Agency exemption. An employee given training during a period not otherwise covered by a provision of this paragraph may be paid premium pay when the employing agency has been granted an exception to paragraph (a) of this section by the U.S. Office of Personnel Management.

(c) An employee who is excepted under paragraph (b) of this section is eligible to receive premium pay in accordance with the applicable pay authorities.

(d) Regulations governing overtime pay for employees covered by Fair Labor Standards Act (FLSA) during training, education, lectures, or conferences are found in §551.423 of this chapter. The prohibitions on paying premium pay found in paragraph (a) of this section are not applicable for the purpose of paying FLSA overtime pay.