

Part E. Miscellaneous Questions

a. Overtime

1. *What are the rules about the number of overtime hours a supervisor may require employees to work?*

No statutory or regulatory limits apply to the amount of overtime work a manager may require an employee to perform. However, an employee may be excused from overtime work for reasons such as illness or the illness of a family member. For information on computing overtime pay, see <http://www.opm.gov/oca/pay/HTML/FACTOT.asp> and <http://www.opm.gov/oca/pay/HTML/computeflsa.asp>.

If an employee refuses to perform overtime work, the agency may discipline the employee for failure to report for scheduled overtime duty.

2. *[hypothetical] I am working from home because of a pandemic influenza. I chose to work 4 hours in addition to my regular 8-hours-per-day work schedule. May I receive overtime pay for the additional 4 hours I worked?*

No, unless your agency required you to work the additional 4 hours. Overtime pay generally is required under the Fair Labor Standards Act (FLSA) and 5 CFR 551.501 when Federal FLSA-covered (nonexempt) employees are **required** to be on duty beyond 8 hours a day or 40 hours a week, assuming the supervisor knows of the work or has reason to believe the work is being performed. An FLSA-covered employee who is permitted to telework at home and chooses to work additional hours without the knowledge of his or her supervisor may **not** earn overtime pay as a result of “suffered or permitted” work. (Under the “suffered or permitted” concept, any work in excess of 40 hours a week performed prior to or after established shift hours or during a prescribed lunch period by an employee for the benefit of the agency, whether requested or not, is working time if the manager or supervisor knows of the work or has reason to believe it is being performed.) For employees exempt from the FLSA, overtime pay generally is required by 5 U.S.C. 5542 when hours of work in excess of 8 hours a day or 40 hours during an administrative workweek are **officially ordered or approved** and performed by the employee. For other situations, please check with your servicing Human Resources Office.

3. *May management direct an employee to work on a Saturday or Sunday if the employee’s normal work schedule is Monday through Friday?*

Yes. Changes in an employee’s work schedule are within the discretion of the employing agency, as long as the changes are consistent with law, regulations, and any applicable negotiated agreement. In addition, agencies may require employees to perform overtime work. There is no limit in law or regulations on the amount of overtime work required each day or on weekends. For additional information, see <http://www.opm.gov/oca/pay/HTML/FACTOT.asp>.

b. Hazardous Duty Pay or Environmental Differentials

1. *May employees receive hazardous duty pay or environmental differential pay for potential exposure to pandemic influenza?*

No. There is no authority to pay hazardous duty pay (HDP) or environmental differential pay (EDP) for potential exposure to pandemic influenza. HDP for white-collar employees and EDP for Federal Wage System employees is additional pay for job-related exposure to hazards, physical hardships, or working conditions of an unusually severe nature which cannot be eliminated or significantly reduced by preventive measures (e.g., safety equipment, protective clothing). HDP and EDP are not intended to compensate employees for exposure to a safety risk unrelated to their assigned duties.

c. Adjustment of Work Schedules for Religious Observances

1. *[hypothetical] I have employees who have been asked by their church to pray for the end of the pandemic on a daily basis during work hours. May I allow them to do this without requiring them to take leave?*

An adjustment of work schedules for religious observances may be approved for an employee whose personal religious beliefs require that he or she abstain from work at certain times of the workday or workweek. As long as the adjustment to the work schedule does not interfere with accomplishing the agency's mission, the employee must be permitted to work alternative work hours so he or she can meet his or her religious obligation while fulfilling his or her basic work requirements. For additional information, see <http://www.opm.gov/oca/WORKSCH/HTML/RELI.htm>

An employee also may elect to use accrued annual leave or other paid time off, such as earned compensatory time off, earned compensatory time off for travel, or earned credit hours for this purpose.

d. Awards

1. *How can management reward employees who worked during an emergency?*

Managers may use their normal awards programs to recognize exceptional contributions to the organization. The variety of awards is the same as those generally available under current law and regulations. For additional information, see <http://www.opm.gov/perform/reward.asp>, <http://www.opm.gov/perform/faqs/faqs.asp>.

e. Workers' Compensation

1. *If I'm asked to work during the pandemic and I contract the flu while at work, will I be covered by workers' compensation?*

If an employee or the family of an employee believes illness or on-the-job death resulted from a work related incident, they will be able to file a workers' compensation claim. However, the Department of Labor makes determinations on entitlement to workers' compensation, and each case is judged on its own merits. To apply for workers'

compensation benefits, contact your local servicing human resources office. Information on workers' compensation benefits for Federal employees can be found at <http://www.dol.gov/esa/regs/compliance/owcp/fecacont.htm> or by telephone at (866-OWCP-IVR (866-692-7487).

f. Death-Related Issues

1. *If I die from the flu, what procedures should my family follow to collect any benefits to which they are entitled (FELGI, unused leave, last pay check, etc.)?*

Your family should work with your supervisor to apply for agency benefit payments. Information about benefits eligibility can be found in the guide entitled, "What You and Your Family Need To Know About Your Federal Benefits During an Emergency". This guide has extensive information on procedures for distribution of benefits. See Section IV-F of this Human Capital Planning Guide.

2. *If I supervise an employee who dies because of the flu, what should I do with the employee's records and personal effects or to help the employee's family?*

Contact your agency's human resources office if you need guidance on the procedures for the distribution of personal effects, records, and resolution of family matters. Also, direct the deceased employee's family to the Internet guide entitled, "What You and Your Family Need To Know About Your Federal Benefits During an Emergency." The guide discusses the procedures involved in obtaining benefits for the family after an employee dies. See Section IV-F of this Human Capital Planning Guide.

g. Furlough Issues During a Pandemic

1. *If an agency/facility/or geographic region is quarantined, may an agency furlough its employees to place the employees in a temporary non-pay, non-duty status?*

Yes. The usual regular and emergency furlough provisions could apply in this situation. OPM's Website provides extensive furlough guidance at <http://www.opm.gov/furlough/furlough.htm>.

2. *If an agency decides to furlough employees as a result of a pandemic, may the employees choose to take annual leave instead?*

Yes, an employee may request annual leave in lieu of furlough in this situation.

3. *Are employees entitled to unemployment compensation while on furlough?*

It is possible that employees may be eligible for unemployment compensation, especially if they are on consecutive furlough days. State unemployment compensation requirements differ. Agencies or employees should submit their questions to the appropriate State office.

4. *What happens to employees' health and life insurance benefits during a furlough?*

For health benefits, enrollment continues for no more than 365 days in a nonpay status. The nonpay status may be continuous or broken by periods of less than four consecutive months in a pay status. The Government contribution continues while employees are in a nonpay status. The Government also is responsible for advancing from salary the employee share of premium. The employee can choose between paying the agency directly on a current basis or having the premiums accumulate and be withheld from his or her pay upon returning to duty.

For life insurance, coverage continues for 12 consecutive months in a nonpay status without cost to the employees or to the agency. The nonpay status may be continuous or it may be broken by a return to duty for periods of less than four consecutive months.

For further information, see [OPM Furlough Q&As](#).