

B-49



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

CSC Docket No. 2017-3450

Rule Relaxation

ISSUED: MAY - 9 2017 (CSM)

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* continue to 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, due to a rise in case submissions to the Office of Forensic Sciences and the resultant backlog which caused prosecutors to experience challenges in presenting cases to grand juries, in *In the Matter of Overtime Program, Department of Law and Public Safety* (CSC, decided December 12, 2016), the Civil Service Commission (Commission) relaxed the provisions of *N.J.A.C. 4A:3-5.3* to permit individuals in the NE titles of Forensic Scientist 1, DL&PS and Forensic Scientist 2, DL&PS receive cash compensation at one and one-half times the regular rate for hours worked between 35 and 40 hours until April 30, 2017. Agency Services notes that the overtime program now in place because of the prior rule relaxation consists of one hour prior to the scheduled shift and a seven-hour weekend shift, with a maximum of 12 hours per scientist, per week. Based on this schedule, employees impacted by the program work a maximum of 47 hours per week.

In its request, Agency Services explains that since the original rule relaxation, the open competitive list for Forensic Scientist 1, DL&PS (S0503U) promulgated on January 5, 2017 and four certifications issued that are due back on



June 29, 2017. However, since this examination only generated a list of 45 eligibles, the appointing authority intends to request another examination announcement once the current list is exhausted. As the appointing authority is actively working to fill permanent positions, in conjunction with the continuing backlog, Agency Services requests extension of the rule relaxation for an additional four months until August 31, 2017 so that the appointing authority can address its staffing needs and ensure operational efficiency.

### 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 be relaxed for good cause, in a particular circumstance, in order to effectuate the purposes of Title 11A of the New Jersey Statutes Annotated.

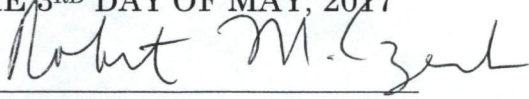
Due to the rise in case submissions to the Office of Forensic Sciences and the resultant backlog which has caused prosecutors to experience challenges in presenting cases to grand juries, it is appropriate to continue to permit NE employees who work more than 40 hours in a week to receive cash overtime 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 August 31, 2017.

### 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 3<sup>RD</sup> DAY OF MAY, 2017



Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Director  
Division of Appeals and Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P.O. Box 312

Attachment

Trenton, New Jersey 08625-0312

c: Mirella Bednar  
Jessica Chianese  
Kelly Glenn  
Records Center