HRDG 4550 - Premium Pay - Section F

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Subchapter 4550
Premium Pay
Section F - Night, Holiday, and Sunday Premium Pay for General Schedule Employees

- Applicability
- Are Employees (including mixed tour employees) Entitled to Night, Holiday, or Sunday Premium Pay?
- Can I Receive Night, Holiday, or Sunday Premium Pay if I am on a Special Tour of Duty for Educational Purposes?
- Is There a Premium Pay Limitation for FLSA-Exempt Employees?
- Who is Entitled to Night Differential?
- What is the Night Differential Rate of Pay?
- Am I Eligible for Night Differential During Periods of Paid Absence?
- Am I Entitled to Night Differential if my Tour of Duty is a First-8 or First-40-Hour Tour of Duty?
- Am I Entitled to Night Differential if I am Temporarily Assigned to a Different Daily Tour?
- Who is Entitled to Holiday Pay?
- What is the Rate of Pay for Holidays?
- What are my First-40-Hour Employees' Holiday Pay Entitlements?
- How am I Paid for a Holiday if my Shift Spans Two Calendar Days?
- Is Inauguration Day a Legal Holiday for Me?
- Am I Entitled to Holiday Premium Pay if I am on Military or Court Leave?

- Am I Entitled to Holiday Premium Pay if the Location Where I Work has a “Local Holiday?"
- What if I am Attending a Meeting on a Holiday?
- What if I am in a Travel Status on a Federal Holiday?
- Who is Entitled to Sunday Pay?
- What is the Sunday Premium Pay Rate?
- When am I not Eligible for Sunday Premium Pay?

Return to 4550 Table of Contents

Applicability

Depending on the tour of duty, most General Schedule (GS), General Merit (GM), and Administratively Determined (AD) employees, regardless of their Fair Labor Standards Act (FLSA) status, are entitled to night differential, holiday pay, and Sunday differential.

Prevailing rate employees (wage grade) should see **Section L** for additional guidance.

Are Employees (including mixed tour employees) Entitled to Night, Holiday, or Sunday Premium Pay?

Your entitlement to premium pay for night, holiday, and Sunday work is based on your work status during the pay period. The following table outlines your entitlements:

	Then your entitlements are:		
If you work:	Night differential*	Holiday premium pay	Sunday premium pay*
Full-time	Yes	Yes	Yes
Part-time	Yes	Yes	Yes
Intermittent	No	No	No

*** Note**: Employees being paid under Title 7 U.S.C. 2260 (Import-Export Act) are paid night differential and Sunday pay in accordance with APHIS Directive 402.3.

Can I Receive Night, Holiday, or Sunday Premium Pay if I am on a Special Tour of Duty for Educational Purposes?	If you are an employee, regardless of FLSA status, who is permitted to be on a special tour of duty for educational purposes, you may not receive premium pay (including pay for night, Sunday, or holiday work) solely because the special tour results in work on a day or at a time for which premium pay is otherwise authorized.

Yes, there is a limitation on premium pay for FLSA-exempt employees. Employees' premium pay may not exceed the rate of pay of GS-15, step 10. This includes pay for overtime, compensatory time, and premium pay for night, holiday, or Sunday work.

Note: There is no limitation on the amount of premium pay an FLSA-nonexempt employee may receive or an employee, regardless of FLSA status, earning premium pay for work under Title 7 U.S.C. 2260 (Import/Export work).

The value of the compensatory time is added to your base pay and other premium pay for the pay period in which you worked the overtime. This amount must not exceed the GS-15, step 10 rate of pay for the pay period. If this should occur, your timekeeper and supervisor must reduce your compensatory time that exceeds the GS-15, step 10 limit. It is permanently lost and you or your supervisor may not resubmit a claim for it to the National Finance Center in any subsequent pay period.

Is There a Premium Pay Limitation for FLSA-Exempt Employees?

Title 5 Code of Federal Regulations (CFR) Part 550.105(a) establishes this biweekly maximum earnings limitation at the GS-15, step 10. However, Title 5 CFR Part 550.106 allows for waivers to the limitation in emergency situations. This authority allows the GS-15, step 10 earnings limitation to be applied on an annual rather than biweekly basis for work in connection with a declared emergency. The Secretary of Agriculture has the authority to waive the biweekly maximum earnings limitation for work in connection with such an emergency and allows an agency to instead use the annual limitation.

To obtain this waiver, a program must submit a request for a waiver in writing and include the following information:

- Complete description of the emergency (with any supporting documentation such as agency press releases, regulations, etc.),
- Who (name, title, and phone number) declared the emergency (see 5 CFR 550.106 [a] and 5 U.S.C. 5547[b][1]),
- The date the emergency was declared, and
- Expected duration of the emergency.

Who is Entitled to Night Differential?

Full-time (FT) and part-time (PT) employees are entitled to earn night differential pay for regularly scheduled work between the hours of 6 p.m. and 6 a.m. This includes regularly scheduled overtime and any other overtime that is habitual and recurring due to the nature of the industry. Intermittent employees are not entitled.

Night differential is paid at ten percent of the basic hourly rate.

What is the Night Differential Rate of Pay?

Employees are entitled to night differential for time in official travel status if:

- The time in travel status occurs during periods of regularly scheduled night work,
- If they have a regularly scheduled tour of duty that includes regularly scheduled work between 6 p.m. and 6 a.m.,
- Are temporarily assigned to a tour that includes night work.

You may be eligible for premium pay for night work during periods of paid absences as described in the following chart:

If your absence is due to:	Then you are entitled to night differential:
Annual leave (TC 61) Sick leave (TC 62) Home leave (TC 69)	only if absences total less than 8 hours per pay period *
Compensatory time off for religious observance (TC 60) Compensatory time off (TC 64) (also see **Section E** , Compensatory Time, “Earning and Using Compensatory Time”) Military leave (TC 65) Court leave (TC 66) Excused absence (TC 66) Funeral leave (TC 66) Holidays (TC 66) Injury leave (TC 67) Emergency military leave (TC 68)	Yes
Leave without pay (TC 71) Absence without leave (TC 72)	No

* If you have 8 or more hours of any combination of annual, sick, home, or shore leave during a pay period, no night differential is payable for any period of these types of leave during the pay period.

Am I Eligible for Night Differential During Periods of Paid Absence?

Example: You have a regularly scheduled tour of duty Monday through Friday of 2 p.m. to 10:30 p.m. with a 30-minute meal period between 6 and 6:30. You work the following schedule:

Day	Monday	Tuesday	Wednesday	Thursday	Friday
Week 1	8 hours	8 hours	8 hours	8 hours	8 hours
Status	Work	Work	Work	Work	4 hours work (2 - 6 p.m.) 4 hours

Am I Entitled to Night Differential if my Tour of Duty is a First-8 or First-40-Hour Tour of Duty?	As a first-8 or first-40 hour employee, you are entitled to night differential for all hours of non-overtime and regular overtime work between 6 p.m. and 6 a.m.
Am I Entitled to Night Differential if I am Temporarily Assigned to a Different Daily Tour?	If you are temporarily assigned during the administrative workweek to a daily tour of duty that includes night work, you can have the night hours counted as hours of work for computing night differential (ND). (This schedule change does not have to occur before the beginning of the administrative workweek.) However, if you are assigned to a period of irregular or occasional overtime in addition to your regularly scheduled administrative workweek, you cannot count the overtime night hours worked as hours of work for computing ND (see 5 CFR Part 550.122[d]).
Who is Entitled to Holiday Pay?	As a supervisor, you must pay your full-time and part-time employees holiday pay for non-overtime work on legal holidays. Intermittent employees are excluded. These employees are paid at the regular rate for work on a holiday. Intermittents receive no pay if they do not work on a holiday.

Holiday pay is paid at twice the hourly rate of pay for up to 8 hours of work performed on a holiday during hours that correspond to a regularly scheduled daily tour of duty (5 CFR 550.103). Your employees must be paid for a minimum of 2 hours, even if they work less than that (5 CFR 550.131[c] and 5 USC 5546[c]).

Your employees will receive overtime pay or compensatory time for overtime work on a holiday. Compensatory time may not be granted for non-overtime work on a holiday.

Employees are entitled to holiday premium pay for non-overtime work on the following holidays:

Holiday:	**Date:**
New Year's Day	January 1
Martin Luther King's Birthday	Third Monday in January
Washington's Birthday	Third Monday in February
Memorial Day	Last Monday in May
Juneteenth National Independence Day	June 19
Independence Day	July 4
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Christmas Day	December 25

What is the Rate of Pay for Holidays?

Example: Your employee has a regularly scheduled standard tour of duty of Monday through Friday, from 8 a.m. to 4:30 p.m., with a 30-minute meal break. The employee works 8 hours a day Monday through Friday during Week 1, and 8 hours a day Monday through Thursday of Week 2. You order your employee to work on the second Friday of the pay period, a legal holiday, from 8 a.m. to 6:30 p.m. You compensate your employee as follows:

72 hours - Regular time (TC 01)
2 hours - Overtime over 40 (TC 21)
8 hours - Holiday worked (TC 31)
8 hours - Holiday administrative leave (TC 66)

What are my First-40-Hour Employees' Holiday Pay Entitlements?

Employees with a first-40-hour tour of duty are entitled to:

- Time off on holidays which occur within their basic workweek.
- Overtime if the holiday occurs after your employee has worked at least 32 hours in the administrative workweek and the hours worked before or after the holiday are in excess of 32 hours.

How am I Paid for a Holiday if my Shift Spans Two Calendar Days?

If your shift spans two calendar days, then one shift is identified as your holiday and you may be paid 8 hours of holiday pay for that shift.

It is not appropriate to pay you for less than 8 hours for a holiday shift during which you worked a total of 8 hours even though part of it was on the holiday and part of it was not (CG: B-202626, 6/15/82).

Is Inauguration Day a Legal Holiday for Me?

In every fourth year following the year of the Presidential election, January 20 is considered a legal holiday for premium pay purposes if you work in the Washington, D.C., area on that day, regardless of whether Washington is your official or temporary duty station (5 U.S.C. 6103[c]). You are not entitled to holiday premium pay for non-overtime work on Inauguration Day if you work outside of the Washington area, regardless of whether or not Washington is your official duty station. There is no “in lieu of” day for those on alternative work schedules.

The Washington, D.C. area is defined as:

- The District of Columbia,
- Montgomery and Prince George's Counties (Maryland), and
- Fairfax and Arlington Counties and the cities of Alexandria and Falls Church (Virginia).

Am I Entitled to Holiday Premium Pay if I am on Military or Court Leave?

If you are on military or court leave, you are entitled to holiday premium pay if:

- The holiday work is regularly scheduled, and
- You would have been required to work had you not been away on military or court leave.

Am I Entitled to Holiday Premium Pay if the Location Where I Work has a “Local" Holiday?

You are not entitled to holiday premium pay for work on local, State, territorial or foreign holidays. Although you may be granted excused absence (administrative leave) for local holidays, if you are required to work on one of these days, or another non-workday established by administrative order, you are paid at the straight-time rate for non-overtime work.

Example: You and your co-workers work in the X-ville office where a local holiday causes your office building to be closed. Your co-worker is required to work in the X-ville office that day. Your co-worker is not entitled to holiday premium pay because the local holiday is not a legal holiday for premium pay purposes.

What if I am Attending a Meeting on a Holiday?

By attending a meeting, on a holiday, on the agency's behalf, you are working. Therefore, regardless of your FLSA status, you are paid holiday pay. The number of hours of holiday pay will depend on the length of the meeting and your tour of duty (see HRDG, **4610**, Tours of Duty, for additional information.)

If you are in a travel status on a Federal holiday and you are	And the event to which you are traveling is administratively controllable	The event to which you are traveling is not administratively controllable	Then you are
FLSA-exempt or FLSA-nonexempt traveling during hours which **do not** correspond to your regularly scheduled duty hours	X		Not entitled to holiday worked (TC 31), regular compensatory time, or overtime pay. Entitled to compensatory time for travel (CTOT) TC 32 prefix 78)
FLSA-exempt or FLSA-nonexempt traveling during hours which **do not** correspond to your regularly duty hours		X	Entitled to overtime or regular compensatory time hours for travel outside of the tour of duty Not entitled to CTOT (TC 32, prefix 78)
			Entitled to holiday worked (TC 31) for travel performed during a

Who is Entitled to Sunday Pay?	Full-time and part-time employees are entitled to Sunday pay for each non-overtime regularly scheduled daily tour of duty that begins or ends on Sunday. (See: Fathauer v. United States, 566 F.3d 1352 [Fed. Cir. May 26, 2009].) Intermittent employees are excluded. Employees may only receive up to 8 hours of Sunday pay unless they are working under a compressed tour of duty. Employees under a compressed tour receive Sunday pay for the number of hours regularly scheduled for Sunday.
What is the Sunday Premium Pay Rate?	The Sunday premium pay rate is 25% of the basic hourly rate.

When am I not Eligible for Sunday Premium Pay?

You are not eligible for Sunday premium pay during periods of paid absences (Register Volume 72, Number 50, dated March 15, 2007):

Sunday pay is not paid if your absence is due to:

Absence without leave (TC 72)
Annual leave (TC 61)
Compensatory time off (TC 64)
Compensatory time off for religious observance (TC 60)
Court leave (TC 66)
Credit hours used (TC 50)
Emergency military leave (TC 68)
Excused absence (TC 66)
Funeral leave (TC 66)
Holidays (TC 66)
Home leave (TC 69)
Leave without pay (TC 71)
Military leave (TC 65)
Shore leave (TC 59)
Sick leave (TC 62)

Time Off Awards (Prefix 61, TC 66)

Note: Intermittent employees are not eligible for Sunday premium pay.

Return to 4550 Table of Contents

Print