**TO:                         CSEA Members**

**FROM:                  CSEA State Operations**

**DATE:                    April 29, 2020**

**RE:                         Overtime Compensation for Work in a Lower Salary Grade**

CSEA members may be asked to volunteer to assist with Department of Labor (DOL) Unemployment Insurance Calls and the Department of Health (DOH) COVID-19 hotline. The question is at what rate of pay is overtime paid for such assignments, especially if the work is in a lower graded position.

The Division of Budget Bulletin G-1024 (<https://www.budget.ny.gov/guide/bprm/g/g-1024.html>) is controlling. There are two scenarios:

When the overtime is worked in a lower graded position, the employee is paid at a rate based on the average of their regular position and the lower graded position.

However, if the employee’s agreement is obtained in advance, the employee should receive compensation in the amount  of one and one and ½ times the regular hourly rate of pay of the maximum salary of the lower position, plus longevity.  The employee would be eligible as long as that amount does not exceed one and ½ times the rate of pay of the employees regular position.

Employees can be mandated to perform DOL UI and other COVID-19 related work during their regularly scheduled workweek.  Those volunteering or mandated to perform such work during their regularly scheduled workweek will be paid at their regular rate of pay as such assignments will simply be considered “time worked.”

Employees who sign-up for DOL or DOH shifts outside of their regular work hours should make sure to confirm the compensation for the assignment.

Overtime pay is monetary compensation for time worked at 40 hours or more per workweek.  The difference between 37.5 hours and 40 hours is compensatory time.

If you have further questions, please contact your LRS.

**OVERTIME RATE**

**For Lower Salary Graded Work Performed**

|  |  |  |
| --- | --- | --- |
| **For All hours worked under 40 per week** | **For all hours worked over 40 per week** | |
|  | **No Prior Employee agreement** | **With Employee's prior agreement** |
| **Employee's Current rate of pay** | **Compensated at a blended rate of pay (normal hourly rate and hourly rate for actual work performed)** | **Rate of pay for actual work being performed (at maximum rate with longevity).** |