



STATE OF MICHIGAN  
CIVIL SERVICE COMMISSION

**STATE PERSONNEL DIRECTOR OFFICIAL COMMUNICATION**  
**SPDOC No. 20-09**

TO: ALL APPOINTING AUTHORITIES, HUMAN RESOURCES OFFICERS,  
AND RECOGNIZED EMPLOYEE ORGANIZATIONS

FROM: JANINE M. WINTERS, STATE PERSONNEL DIRECTOR

DATE: JULY 15, 2020

SUBJECT: **AMENDMENT TO REGULATION 5.02, OVERTIME, ON-CALL, AND  
CALLBACK COMPENSATION**

A handwritten signature in cursive script that reads "Janine M. Winters".

THIS DOCUMENT IS AVAILABLE UPON REQUEST IN ALTERNATIVE FORMATS. FOR FURTHER  
INFORMATION CALL (517) 284-0115.

Amendments to regulation 5.02 are necessary to clarify longstanding practice on the application of § 3.A.2.d(1) to employees who do not have regular schedules. This provision generally requires agencies to provide notice to employees of their work schedule and of any changes to the regular schedule 96 hours before a new biweekly work period begins. If this notice is not provided, overtime eligible employees can receive pay at the overtime rate for any hours worked outside the noticed schedule, regardless of whether they would otherwise qualify for overtime pay based on the number of hours actually worked. This provision recognizes the disruption to employees of changes to regular schedules on short notice.

Some employees, however, are employed with the understanding that their schedules cannot be predictably determined ahead of time and may require ongoing adjustment. The intent of § 3.A.2.d(1) was never to provide a 50% pay premium for all hours worked by permanent-intermittent and other variable-schedule employees who cannot be reliably told their schedules in advance.

Questions have been asked recently about whether the 96-hour requirement applies to all employees—including those without a regular schedule that could be noticed. Intermittent employees by definition do not have regular schedules and have never been treated as requiring the 96 hours of notice. These employees do, however, remain potentially eligible for overtime pay if they otherwise qualify based on the number of hours worked.

Questions also have been asked about whether biweekly notice is required of an employee's regular schedule. By definition, employees working under a regular work already have received notice of their schedule. Regardless, language is added clarifying that additional biweekly notices are not required.

To provide additional clarification on the proper application of this provision and avoid any potential ambiguity, I am amending regulation 5.02, § 3.A.2.d(1) to clarify longstanding practices as provided below:

**d. Scheduling.**

- (1) An employee's daily or biweekly work schedule may be changed temporarily.
  - (a) For full-time employees and for less-than-full-time employees with a regular work schedule, an agency shall post or provide notice of an employee's work schedule at least 96 hours before a biweekly work period begins. If the agency does not do so or if the employee's schedule is changed after 96 hours before the work period's start, the employee is eligible for overtime payment for all hours worked outside the employee's noticed work schedule for that pay period. Biweekly posting or notice of work schedule is not required for those with a regular work schedule, unless the regular schedule will change for that pay period or going forward.
  - (b) For noncareer employees, permanent-intermittent employees, or other less-than-full-time employees with variable schedules, an employee qualifies for overtime payment only if otherwise eligible based on the number of hours worked.

In accordance with Regulation 1.01, § 4.C, *Issuance of Civil Service Regulations*, this regulation is being issued immediately and is effective July 15, 2020.