



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

MEMORANDUM

DATE : March 26, 1990
TO : Addressees
FROM : Acting Assistant Commissioner
for Patents
SUBJECT : Overtime Policies for Professional/and Clerical
Employees Under the Assistant Commissioner for
Patents

This memorandum supersedes all prior policy memoranda on the subject of overtime for the Patent Examining Corps and effective April 8, 1990, represents the current policy for all operations under the Assistant Commissioner for Patents.

Group Directors or their equivalents shall authorize overtime in accordance with funding availability, workloads, workload distributions and the availability and demonstrated performance of employees in their Group or equivalent, as well as other specific needs of the Group or equivalent and other considerations set forth in Article 9 of the POPA contract and Article 32 of the NTEU 243 contract. Only personnel whose names appear on the overtime authorization list (CD-81) will be permitted to work and claim paid overtime.

The following is a statement of the policies regarding the authorization and working of overtime. Each Group Director or equivalent is responsible for ensuring that these policies are enforced.

- 1) On a bi-weekly basis and in advance, the Director or equivalent will sign an overtime authorization list (CD-81) identifying those employees authorized to work overtime for that pay period and the maximum number of hours authorized for each individual. Employees will be limited to 32 hours of overtime each bi-weekly pay period unless the statutory limit on aggregate pay dictates a lower limit. Individual exceptions to the 32-hour limit may be authorized by the Group Director or equivalent in limited situations (a) where an individual can demonstrate the ability to efficiently work at a higher limit, or (b) to meet specific needs of the Office.

- 2) Overtime may be worked on any day of the week including Saturdays, Sundays and holidays. A maximum of 12 hours, including the normally scheduled workday and overtime, may be worked on any day. Paid overtime may not begin before 4:30 AM and must be completed by 11:30 PM. All overtime must be worked in integral or continuous whole hour units.
- 3) No more than 6 consecutive hours of overtime work are permitted in the absence of an uncompensated 1/2-hour meal break. Any meal time is not payable as overtime.
- 4) Whenever overtime has been estimated for the purpose of early submission of time and attendance reports, any estimated overtime not worked must be adjusted on the time and attendance report to insure that the report records time actually worked. Under no circumstances can an employee "owe" overtime or get paid for hours not actually worked.
- 5) Sign-in/sign-out sheets will be maintained in each Group or equivalent by the Group Supervisors or their equivalents in accordance with my memorandum of May 18, 1988. These sheets are used to verify the payroll input and should be conscientiously used to insure proper pay. Additionally, all rules regarding building security must be followed. Building sign-in/out sheets must be legibly completed with proper times every time an employee enters or leaves the Office buildings during security hours.

Group supervisors or their equivalents are required to periodically and randomly spot-check the building sign-in/sign-out sheets against the Group or equivalent sign-in/sign-out sheets to verify compliance with Office procedures. Corrective action must immediately be taken when discrepancies are discovered.

Group supervisors or equivalent are also required to make random checks during overtime hours to ensure employees are present and performing their assigned duties.

Each Director or equivalent shall establish procedures to insure that periodic and random spot checks are performed by supervisory personnel.

- 6) An employee must be performing at least at the fully successful level on all critical elements of his/her performance appraisal plan before being authorized to work overtime.

Bi-weekly authorization will be granted during the first quarter of the fiscal year based on at least fully successful productivity during the previous fiscal year, unless an examiner fails to achieve the fully successful level of productivity during the fourth quarter of the previous fiscal year. Furthermore, an authorization granted for the first quarter of the fiscal year may be rescinded during that period if the examiner's performance warrants removal from overtime.

Moreover, if an examiner fails to achieve the fully successful level of productivity for any given quarter, he/she will be prohibited from working overtime the following quarter.

Additionally, on a bi-weekly basis during the second, third, and fourth quarters of the fiscal year, if an examiner's year-to-date productivity achievement falls below the fully successful level, he/she will be removed from the overtime authorization list until the year-to-date achievement is brought up to the fully successful level.

When an examiner's year-to-date productivity falls below the fully successful level, the examiner should not be further authorized to work overtime until his/her performance again meets or exceeds the fully successful level. Whereas the PALM 3205 PR1, Biweekly Examiner Time and Activity Report, will not be available to assist supervisors in verifying examiner production eligibility, Group Supervisors or their equivalents must take other appropriate measures to verify that the required level of productivity achievement has been maintained before further overtime is authorized for the next succeeding bi-weekly period.

First-year examiners, to be authorized overtime, will be required to reach and maintain a fully successful performance level of productivity as established by the Group Director.

Individual exceptions to the above performance standards may be granted by the Group Director or equivalent only in exceptional circumstances.

- 7) Each Group Director or equivalent is required to submit a mid-year and end-of-fiscal-year report to the Office of the Deputy Assistant Commissioner for Patents listing those employees authorized to exceed the 32-hours-per-pay-period limit, the maximum number of hours permitted, and the reasons therefor. The report will also include an explanation of any exception to the above performance standards granted by the Director or equivalent.
- 8) Within the above policies, further restrictions may be imposed for each Group or equivalent at the discretion of the Group Director or equivalent. The Office of the Assistant Commissioner for Patents should be notified when further restrictions are imposed.

Employees should be informed that heating and air conditioning may not be provided during all working hours.



James E. Denny
Acting Assistant Commissioner
for Patents

Addressees:

Stephen Kunin
Group Directors
William Lawson
Ed Earls
Rich Rouck
Jeff Nase
Manuel Antonakas