



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

The Director

Sunday, December 2, 2018
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MEMORANDUM FOR: HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: MARGARET M. WEICHERT, ACTING DIRECTOR

Subject: National Day of Mourning for President George H. W. Bush; Federal Government Closure on Wednesday, December 5, 2018

As the Nation mourns the loss of President George H. W. Bush, President Trump has taken official action to allow Federal employees to join their fellow citizens in remembering our forty-first President of the United States. The President has issued an Executive order to close Federal offices and excuse all Federal employees from duty for the scheduled workday on Wednesday, December 5, 2018, except those who, in the judgment of the head of the agency, cannot be excused for reasons of national security, defense, or other essential public business.

For pay and leave purposes, this period of time will be treated as falling within the scope of statutes and Executive orders governing holidays. Most employees who are excused from duty as a result of the President's Executive order will receive the basic pay they would have received if no Executive order had been issued. An employee who was previously scheduled to take annual leave on December 5, 2018, will not be charged annual leave (or any other form of paid leave, compensatory time off, or credit hours) for that day. (This policy does not apply to employees who receive annual premium pay for standby duty under 5 U.S.C. 5545(c)(1) or to firefighters who are covered by the special pay provisions of 5 U.S.C. 5545b.)

Implementation guidance for the National Day of Mourning can be found in the Attachment. For general pay and leave administration instructions, please refer to our fact sheets on [Federal Holidays—Work Schedules and Pay](#), [Compressed Work Schedules](#), and [Flexible Work Schedules](#).

Additional information

For additional information, agency headquarters-level human resources offices may contact OPM at pay-leave-policy@opm.gov. Employees should contact their agency human resources offices for assistance. Employees of the U.S. Postal Service and contract employees should contact their supervisor (or contract officer) to obtain information on their pay and leave entitlements.

cc: Chief Human Capital Officers, and Human Resources Directors

Attachment: **Questions and Answers on Pay and Leave Administration National Day of Mourning for President George H. W. Bush December 5, 2018**

Leave

Q1. Are employees who are scheduled to take annual leave on Wednesday, December 5, charged leave for that day?

A1. No. Employees who are scheduled to take annual leave on Wednesday, December 5, will not be charged leave for that day.

Q2. Will employees forfeit “use or lose” annual leave scheduled for Wednesday, December 5?

A2. Yes. If an employee has scheduled “use or lose” annual leave for Wednesday, December 5, and is unable to reschedule that leave for use before the end of the leave year (i.e., January 5, 2019), the leave will be forfeited. When “use or lose” leave is forfeited under these conditions, the law does not permit restoration of the leave. (See 5 U.S.C. 6304(d).) (We note that employees may donate their excess annual leave to an approved leave recipient under the Federal government’s voluntary leave transfer programs or under the Emergency Leave Transfer Program for approved leave. Employees interested in donating leave should speak with their servicing HR office.)

“In Lieu of” Holiday

Q3. What day is the “in lieu of” holiday for an employee whose basic work schedule does not include Wednesday, December 5?

A3. When a holiday falls on a nonworkday outside a full-time employee’s basic workweek, he or she is entitled to an “in lieu of” holiday. Except when the holiday falls on Sunday, the day to be treated as the “in lieu of” holiday is the workday immediately preceding the nonworkday. (See 5 U.S.C. 6103(b) and section 3(a) of Executive Order 11582, February 11, 1971.)

Example 1 — Friday - Tuesday Work Schedule

(Wednesday and Thursday are scheduled nonworkdays)

Since the employee has a regularly scheduled nonworkday on Wednesday, December 5, the “in lieu of” holiday for December 5 (the National Day of Mourning for President George H. W. Bush) would be the preceding workday — in this example, Tuesday, December 4, 2018.

Example 2 — Thursday - Monday Work Schedule

(Tuesday and Wednesday are scheduled nonworkdays)

Since the employee has a regularly scheduled nonworkday on Wednesday, December 5, the “in lieu of” holiday for December 5 (the National Day of Mourning for President George H.W. Bush) would be the preceding workday — in this example, Monday, December 3, 2018.

Q4. What is the “in lieu of” holiday for an employee on an alternative work schedule (AWS) (i.e., flexible work schedule or compressed work schedule) whose regularly scheduled AWS day off is Wednesday, December 5?

A4. For full-time employees on an AWS schedule whose regularly scheduled nonworkday is Wednesday, December 5, the workday immediately preceding that day will be designated as the employee's “in lieu of” holiday.

Regularly scheduled nonworkday (AWS Day off) is Wednesday

Example 1: If an employee on an AWS has his or her regularly scheduled AWS day off on Wednesday, December 5, and the preceding workday is Tuesday, December 4, the “in lieu of” holiday for Wednesday, December 5 (the National Day of Mourning for President George H. W. Bush), is Tuesday, December 4, 2018. *Example 2* — If an employee on an AWS has his or her regularly scheduled AWS day off on Wednesday, December 5, and the preceding day Tuesday, December 4, is also a nonworkday, the employee’s “in lieu of” holiday for Wednesday, December 5 (the National Day of Mourning for President George H.W. Bush) becomes Monday, December 3, because the preceding day of Tuesday, December 4, is also a nonworkday. The “in lieu of” holiday must be provided on a preceding scheduled workday, whichever day that falls upon.

Q5. May an agency change an AWS employee’s “in lieu of” holiday?

A5. No, with one limited exception. An agency may select an alternative “in lieu of” holiday for employees on fixed compressed work schedules if the agency head determines that a different “in lieu of” holiday is necessary to prevent an “adverse agency impact,” as defined in 5 U.S.C. 6131(b). (See 5 U.S.C. 6103(d).)

Although there is no authority for an agency to change the “in lieu of” holiday for an employee on a flexible work schedule, the employee may reschedule his or her AWS day off consistent with agency policy.

Q6. Are part-time or intermittent employees entitled to an “in lieu of” holiday?

A6. No, there is no authority to grant an “in lieu of” holiday to part-time or intermittent employees. Part-time employees are entitled to a holiday only if they have a regularly scheduled basic (i.e., nonovertime) tour of duty on the actual National Day of Mourning for President George H. W. Bush, Wednesday, December 5, 2018. Intermittent employees do not have a regularly scheduled tour of duty and may not be paid for holidays not worked.

Agencies may exercise their discretionary authority to grant administrative leave to part-time employees whose offices are closed on a day when most full-time employees have an “in lieu of” holiday for the National Day of Mourning for President George H. W. Bush. For example, in an organization in which employees generally have a Thursday through Monday schedule, the “in lieu of” holiday for Wednesday, December 5, would be Monday, December 3. The agency may wish to excuse part-time employees from working on Monday since the office's full-time employees have a holiday on that day.

Basic Pay Entitlement on a Holiday

Q7. How many hours of basic pay are employees entitled to receive when excused from day on the National Day of Mourning for President George H. W. Bush, Wednesday, December 5, 2018, or the determined “in lieu of” holiday?

A7. Full-Time Employees

Full-time employees under a standard work schedule (8 hours a day, 40 hours a week) are excused from 8 hours of nonovertime work, which are considered part of the 40-hour basic workweek.

Part-Time Employees

A part-time employee is entitled to a holiday when the holiday falls on a day when he or she would otherwise be required to work or take leave. This does not include overtime work. Part-time employees who are excused from work on a holiday receive their rate of basic pay for the hours they are regularly scheduled to work on that day.

Compressed Work Schedule

A full-time or part-time employee on a compressed work schedule (fixed schedule) who does not work because of a holiday receives his or her rate of basic pay for the number of hours he or she was scheduled to work on the holiday. For example, if a holiday falls on a 10-hour basic workday, the employee's holiday is 10 hours. (See 5 CFR 610.406.)

Flexible Work Schedule

A full-time employee on a flexible work schedule is entitled to 8 hours of pay on a holiday when the employee does not work. (See 5 U.S.C. 6124.) A part-time employee under a flexible work schedule is generally excused from duty for the number of hours of his or her basic work requirement (i.e., nonovertime hours) on that day, not to exceed 8 hours. (See 5 CFR 610.405.)

Full-time employees on a “5/4-9” flexible work schedule (or other flexible work schedules under which employees work more than 8 hours a day) must make arrangements to work the extra hour during other regularly scheduled workdays or take annual leave, credit hours, compensatory time off, or compensatory time off for travel in order to fulfill the 80-hour biweekly work requirement.

Holiday Premium Pay

Q8. What pay do employees receive for working during their regularly scheduled basic (i.e., nonovertime) hours on the National Day of Mourning for President George H. W. Bush?

A8. An employee who performs any work during his or her regularly scheduled basic (i.e., nonovertime) tour of duty on the National Day of Mourning for President George H. W.

Bush (or an applicable in-lieu-of holiday) generally receives holiday premium pay under 5 U.S.C. 5546(b) in addition to his or her regular pay. Employees assigned to work on December 5th during their regularly scheduled tour of duty are entitled to a minimum of 2 hours of holiday premium pay.

Q9. Are all Federal employees entitled to holiday premium pay?

A9. No. Members of the Senior Executive Service (SES), the Federal Bureau of Investigation and Drug Enforcement Administration SES, the Senior Foreign Service, Foreign Service officers, and certain other employees who are excluded from the premium pay provisions of 5 U.S.C. chapter 55, subchapter V, are not entitled to holiday premium pay. (See the definition of “employee” in 5 U.S.C. 5541(2).) In addition, employees receiving standby duty pay under 5 U.S.C. 5545(c)(1) and Federal firefighters compensated under 5 U.S.C. 5545b are not entitled to holiday premium pay.

Q10. How many hours of holiday premium pay are employees entitled to earn?

A10. *Full-Time Employees*

Full-time employees on standard work schedules (8 hours a day, 40 hours a week) receive holiday premium pay for up to 8 hours of work during their regularly scheduled basic tour of duty on the National Day of Mourning for President George H. W. Bush. Holiday premium pay is also applicable to the in-lieu-of holiday.

Flexible Work Schedule

Employees under flexible work schedules are entitled to holiday premium pay if they are required to work during the hours of their basic work requirement (i.e., nonovertime hours) on the National Day of Mourning for President George H. W. Bush, not to exceed 8 hours. Holiday premium pay is also applicable to the in-lieu-of holiday.

Compressed Work Schedule

Employees under compressed work schedules are entitled to holiday premium pay if they are required to work during their basic work requirement on this day. The number of hours of holiday premium pay may not exceed the hours in an employee's compressed work schedule on the National Day of Mourning for President George H. W. Bush (e.g., 10 nonovertime hours). (See 5 CFR 610.407.) Holiday premium pay is also applicable to the in-lieu-of holiday.

Part-Time Employees

Part-time employees who are required to perform work during a regularly scheduled basic tour of duty on the National Day of Mourning for President George H. W. Bush are entitled to receive holiday premium pay for up to 8 hours of nonovertime work (or up to the maximum number of nonovertime hours in their compressed work schedule).

Q11. How is holiday premium pay calculated?

- A11. For each hour of holiday work, employees receive holiday premium pay. Holiday premium pay is equal to an employee's rate of basic pay. Employees who are required to work on a holiday receive their rate of basic pay, plus holiday premium pay, for each hour of holiday work. (See 5 U.S.C. 5546(b).)

Compensatory Time Off and Overtime Pay

- Q12. May an employee who is required to work during his or her regularly scheduled basic (i.e., nonovertime) tour of duty on the National Day of Mourning for President George H. W. Bush earn compensatory time off instead of holiday premium pay for that work?**

- A12. No. An employee must receive holiday premium pay for work performed during his or her regularly scheduled basic (i.e., nonovertime) tour of duty (e.g., 8:00 a.m. to 4:30 p.m.) on the National Day of Mourning for President George H. W. Bush.

Compensatory time off is provided in lieu of overtime pay for irregular or occasional overtime work (or, when permitted under agency flexible work schedule programs, in lieu of overtime pay for regularly scheduled or irregular or occasional overtime work). However, because a holiday is considered part of a full-time employee's regular 40-hour workweek (or 80 hours biweekly for employees on certain kinds of flexible or compressed work schedules), work performed during a regularly scheduled basic (i.e., nonovertime) tour of duty on the National Day of Mourning for President George H. W. Bush is not considered overtime work.

- Q13. What if an employee performs work outside his or her regularly scheduled basic (i.e., nonovertime) tour of duty (e.g., 8:00 a.m. to 4:30 p.m.) on the National Day of Mourning for President George H. W. Bush? How is he or she compensated for that work?**

- A13. An employee who performs work outside his or her regularly scheduled basic tour of duty (i.e., overtime work) on the National Day of Mourning for President George H. W. Bush is compensated at the applicable overtime pay rate or through compensatory time off (in appropriate circumstances). (See fact sheets on [Title 5 Overtime Pay](#) and [Compensatory Time Off](#).)

Night Pay

- Q14. What pay will General Schedule (GS) employees receive if they perform work at night on the National Day of Mourning for President George H. W. Bush?**

- A14. GS employees are entitled to night pay for regularly scheduled work (i.e., work scheduled in advance of the administrative workweek) between 6:00 p.m. and 6:00 a.m. (See fact sheet on [Night Pay for General Schedule Employees](#).) Night pay for GS employees is equal to 10 percent of the employee's hourly rate of basic pay. Night pay is earned for regularly scheduled work at night even if an employee is also entitled to overtime pay/compensatory time off or holiday premium pay for the same hours of work. (See 5 CFR 550.122(c).)

Employees also are entitled to night pay when they are excused from regularly scheduled night work during holiday hours. A GS employee who is excused from night work on the National Day of Mourning for President George H. W. Bush is entitled to receive his or her rate of basic pay plus night pay. (See 5 CFR 550.122(a).)

Night Shift Differential for Federal Wage System Employees

Q15. What pay will Federal Wage System (FWS) employees receive if they perform work at night on the National Day of Mourning for President George H. W. Bush?

A15. Under the FWS, a [night shift differential](#) is basic pay for the purpose of computing holiday premium pay. The night shift differential is 7.5 percent for an FWS employee for whom the majority of regularly scheduled nonovertime hours are between 3:00 p.m. and midnight. The night shift differential is 10 percent for an FWS employee for whom the majority of regularly scheduled nonovertime hours are between 11:00 p.m. and 8:00 a.m.

An FWS employee who is entitled to holiday premium pay and who performs nonovertime work on the National Day of Mourning for President George H. W. Bush is entitled to his or her rate of basic pay (including any applicable night shift differential) plus premium pay at a rate equal to the rate of basic pay (including night shift differential). The term “majority of hours” means the number of whole hours greater than half of a shift (e.g., 5 hours of a scheduled 8-hour shift). An FWS employee is entitled to pay (including night shift differential) for overtime work on the National Day of Mourning for President George H. W. Bush under the same rules that apply to overtime work on regular workdays.

Credit Hours under a Flexible Work Schedule

Q16. May an employee on a flexible work schedule earn credit hours for working on the National Day of Mourning for President George H. W. Bush?

A16. No. Employees may not earn credit hours in lieu of receiving holiday premium pay when they perform work during normal working hours. However, an employee on a flexible work schedule may earn credit hours, if permitted under an agency’s flexible work schedule policy, for work the employee elects to perform on a holiday that is in excess of his or her basic work requirement (typically 80 hours biweekly).

Employees Called Back to Work

Q17. Are employees entitled to overtime, night, and/or holiday premium pay if they are called back to work on the National Day of Mourning for President George H. W. Bush?

A17. When an employee is required to return to a worksite to perform irregular or occasional overtime work, he or she is entitled to receive a minimum of 2 hours of overtime pay. An employee who is called back to work during his or her regularly scheduled basic (i.e., nonovertime) tour of duty on the National Day of Mourning for President George H. W. Bush is entitled to receive a minimum of 2 hours of holiday premium pay. (See 5 U.S.C.

5546(c).) However, an employee who is called back to perform irregular or occasional work at night is not entitled to receive night pay.

Holiday Premium Pay and Travel

Q18. Are employees entitled to holiday premium pay for the time they spend in work-related travel on a Federal holiday?

A18. Employees generally are not entitled to holiday premium pay for the time they spend in work-related travel during holiday hours of their tours of duty. Holiday premium pay is paid only to employees who perform work on a holiday. (See 5 U.S.C. 5546(b).) The criteria in 5 U.S.C. 5542(b)(2) must be used to determine whether travel time is hours of work for holiday premium pay purposes. (These are the same criteria used to determine travel time as hours of work for title 5 overtime pay purposes. The criteria are also found in 5 CFR 550.112(g).)

Time spent in a travel status is not hours of work for the purpose of paying premium pay, including holiday premium pay, unless it meets one of the criteria in 5 U.S.C. 5542(b)(2)(B) for crediting irregular or occasional hours of work for travel. The criteria state that time spent in a travel status away from the official duty station is not hours of employment unless the travel—

- involves the performance of work while traveling (e.g., employment as a truck driver);
- is incident to travel that involves the performance of work while traveling (e.g., “deadhead” travel performed by a truck driver to return an empty truck after unloading);
- is carried out under arduous and unusual conditions (e.g., on unpaved roads); or
- results from an event that could not be scheduled or controlled administratively by any individual or agency in the executive branch of the Government (e.g., training scheduled solely by a private firm or a job-related court appearance required by a court subpoena).

Note 1: This guidance applies to both Fair Labor Standards Act (FLSA) exempt and nonexempt employees. The provisions on travel time as hours of work for FLSA overtime pay purposes under 5 CFR 551.422 do not apply to the payment of holiday premium pay. Although most employees do not receive holiday premium pay for time spent traveling on a holiday, they continue to be entitled to pay for the holiday in the same manner as if the travel were not required.

Note 2: Under 5 U.S.C. 5542(b)(2)(A), time spent traveling away from the official duty station is also hours of employment if the time spent is within the days and hours of an employee’s regularly scheduled administrative workweek. However, this does not apply to travel time on a holiday for holiday premium pay purposes because an employee’s regularly scheduled administrative workweek only includes periods of time in which an employee is regularly scheduled to work. Travel time during holiday hours generally is not work time and, therefore, does not fall within an employee’s regularly scheduled

administrative workweek. (See the definition of “regularly scheduled administrative workweek” in 5 CFR 610.102.)

Compensatory Time Off for Travel

Q19. If an employee is required to travel on a Federal holiday, is the employee entitled to receive compensatory time off for travel?

A19. Compensatory time off for travel may be earned by an employee only for time spent in a travel status away from the employee's official duty station when such time is not otherwise compensable. Although most employees do not receive holiday premium pay for time spent traveling on a holiday, an employee continues to be entitled to pay for the holiday in the same manner as if the travel were not required. Thus, an employee may not earn compensatory time off for travel during basic (i.e., nonovertime) holiday hours because the employee is entitled to his or her rate of basic pay for those hours. However, if an employee travels outside of normal work hours (e.g., 8:00 a.m. to 4:30 p.m.) on a holiday, he or she is entitled to earn compensatory time off for travel if the travel time is not compensable under any other legal authority.

Sunday Premium Pay

Q20. If an employee's in lieu of holiday for the National Day of Mourning for President George H. W. Bush is designated on Sunday, will he or she receive Sunday premium pay?

A20. No. An employee must actually work on Sunday as part of his or her regularly scheduled nonovertime tour of duty to receive [Sunday premium pay](#). This Q&A does not apply to part-time or intermittent employees, since they cannot have an in-lieu-of holiday.