

FAQ's: HR Implications for Natural Disasters

1. Question: Can my employer change my work site/location/headquarters and/or shift and/or days off without my approval?

Answer: Yes.

NAPE labor contract:

- Article 3.4 – The right to establish, allocate, schedule, assign, modify, change and discontinue Agency operations, work shifts and working hours.
- Article 3.5 – The right to establish, allocate, assign or modify an employee's duties and responsibilities and the resulting classification of such duties and responsibilities.
- Article 3.7 – The right to hire, . . transfer, assign and retain employees; . . and to relieve employees from duties due to lack of work or funds . . .
- Article 3.8 – The right to increase, reduce, change, modify and alter the composition and site of the workforce.
- Article 7.2 allows for a change in an employee's work schedule without the prerequisite 10 working day notification in cases of an emergency.
 - Classified System Personnel Rules, Chapter 2 – Management Rights
- 001.09 Decisions concerning employee job assignments, employee work schedules, . . . transfers of employees, . . .
- 001.10 Decisions to relieve employees from duties because of lack of work or funds . . .

SCATA labor contract:

- Article 4.1.3 – The right to establish, allocate, schedule, assign, modify, change and discontinue Agency operations, work shifts, and working hours.
- Article 4.1.4 – The right to establish, allocate, assign or modify an employee's duties and responsibilities. In case of emergency, there will be no 5 day notice.

SLEBC labor contract:

- Article 4.2.1.3 – The right to establish, allocate, schedule, assign, modify, change and discontinue State operations, functions, departments, work shifts, and working hours....
- Article 4.2.1.4 – The right to establish, modify, change and discontinue work standards....
- Article 30.1.1 – In the event civil emergency conditions have been determined to exist, an Agency Director may take whatever reasonable actions necessary to carry out the missions of the State.

2. Question: If I am reassigned to another work location because my current work site is closed, is travel to the new location considered work time?

Answer: No. Time spent traveling from home before the regular workday and returning home at the end of the workday is considered ordinary home to work travel, which is not compensable work time.

(<http://www.dol.gov/whd/regs/compliance/whdfs22.pdf>)

3. Question: If I am reassigned to another work location, am I entitled to mileage reimbursement?

Answer: No. Because this new work location/assignment is regular and on-going, it cannot be considered "one day travel" for purposes of expense reimbursement.

4. Question: What if my work site is open, but the roads to that site are closed?

Answer: See answer to questions 1, 2 and 3 above.

5. Question: Will the agency assist employees in finding/establishing car pools to/from the new work location?

Answer: Yes. Agencies are encouraged to assist employees in arranging carpooling or other method of mass transit; however, this will not be feasible in every instance.

6. Question: How long will this reassignment last? Is this considered permanent or temporary?

Answer: The length of this reassignment will vary. This reassignment will be in place until such time as your current facility/work site is reopened.

7. Question: Does this reassignment affect my seniority?

Answer: No.

8. Question: Due to the nature of work I perform, it will be necessary to work additional hours outside of my normal work schedule. How will I be compensated for this time?

Answer: If a position is non-exempt in accordance with the Fair Labor Standards Act (FLSA), employees must receive overtime pay for hours worked in excess of 40 hours in a workweek at a rate not less than time and one-half their regular rates of pay (NAPE Article 12.8; Rules Chapter 9.003.03; SLEBC Article 24.3). Employees working in hospitals, nursing homes, or establishments for the sick, aged or mentally ill, or developmentally disabled, may be assigned a 14-day, 80 hour work period. (NAPE Article 12.4). Such employees are paid time and one-half for all hours worked over 8 in any workday or over 80 in a 14-day work period, whichever is greater.

(<http://www.dol.gov/whd/regs/compliance/whdfs33.pdf>)

For correctional employees that fall under the 7(k) exemption because they are considered law enforcement, will receive time and one-half overtime compensation for hours worked in excess of 40.85 in a workweek (40 regular hours plus roll call time). Teachers required to work outside their scheduled workday or on non-contract days will be compensated in time off at the rate of one hour for each hour worked (SCATA Article 6.3.1).

9. Question: What if my position is exempt from overtime and I am required to work additional hours?

Answer: Exempt employees under the FLSA are not required to receive overtime pay. However, each Agency Head has the discretion to request approval from the Director of Personnel to grant straight time overtime compensation to exempt staff for special circumstances or emergency situations (Rules Chapter 9.003.02a). Agencies wishing to seek this approval may call Josh Stafursky, Classification and Compensation Administrator or the agency's assigned Personnel Analyst for further information. Exempt employees covered by the NAPE labor contract may also receive straight time compensation for extra hours worked at the discretion of the Agency Head. (NAPE Article 12.13) Not applicable to employees covered by the SCATA or SLEBC labor contracts.

10. Question: What are considered "hours worked" for overtime purposes?

Answer: Employees eligible for overtime must be paid for all hours worked in a workweek (a period of 7 consecutive 24-hour periods). In general, "hours worked" includes all time an employee must be on duty, or on the employer's premises or at any other prescribed place of work, from the beginning of the first principal activity of the work day to the end of the last principal work activity of the work day. (<http://www.dol.gov/whd/regs/compliance/whdfs22.pdf>)

Holidays are considered work hours for overtime purposes (except employees in the E Bargaining unit). For E Bargaining Unit employees, holiday leave time is not considered hours worked. (NAPE Article 12.9; Rules Chapter 9.003.03; SLEBC Article 24.1.3). Leave time (vacation, sick, etc.) is not considered hours actually worked. (NAPE Article 12.9; Rules Chapter 9.003.03)

Travel time:

- Home to Work Travel: Not considered work time, see answer to question #2.
- Travel for Work: Time spent in travel as part of a principal activity (such as travel from one job site to another) during the workday is work time and counted as hours worked.
- Time waiting for work is considered hours worked IF the employee is on duty and is waiting for work.

11. Question: What if I am placed in an on-call/standby status?

Answer: A non-exempt employee, covered by NAPE, who is required to be on-call/standby status, will be compensated at a rate of 8% their normal hourly rate for each hour on such status. Such status is defined as an employee who is not on the employer's premises, but is on call and waiting for work, and the employee's personal activities are substantially

restricted. (NAPE Article 7.9) Additionally, non-exempt employees who are called back to duty or called in on a designated day off are guaranteed a minimum of two hours at the appropriate rate of pay. (NAPE Article 7.8)

Teachers required to be on-call will be compensated \$1.25/hour spent in such status. (SCATA Article 6.3.3) Employees covered by the SLEBC contract who are called to duty outside their scheduled shift without 2 hours' notice and when the time worked does not coincide with their scheduled shift, will be guaranteed a minimum of two hours work at straight rate of pay. (SLEBC Article 24.7)

Rules covered employees are not eligible for on-call pay unless the State Personnel Director exercises his authority under Neb. Rev. Stat. 81-1317 to provide the same benefit to rules covered employees as is provided to NAPE covered employees.

12. Question: What if I have to perform work on my designated holiday?

Answer: If work is performed by a permanent, non-exempt employee on their designated holiday, he/she will be compensated at 1.5 times their normal rate of pay. (NAPE Article 14.4; Rules Chapter 10.003.02; SLEBC Article 11.1.4) Employees covered by the NAPE labor contract that work beyond their normally scheduled hours, on a holiday, are compensated at two times their normal rate of pay (NAPE Article 14.4).

13. Question: Is my manager's approval required to work overtime?

Answer: Yes, a non-exempt employee should secure approval from his/her manager prior to working hours in excess of 40 in the employee's work week. However, in the event of an emergency, or when it is not possible or practical to obtain prior approval for overtime work to be performed, the Agency Head and/or Designee may approve the overtime in writing subsequent to the time the work was performed. (NAPE Articles 12.6 and 12.7; Rules Chapter 9.003.05A; SLEBC Article 24.6)

14. Question: What happens to my salary if I am temporarily reassigned to a classification with a higher pay range than my permanent classification?

Answer: Your rate of pay will be adjusted minimally to the hiring rate of the new classification or an increase in accordance with the appropriate promotion guidelines (Rules or NAPE Contract). Contact your Human Resources representative for more information. Such an increase will be implemented if the temporary reassignment exceeds 15 calendar days and will cease upon return to your permanent classification.

- If your permanent position is covered by the Personnel Rules, the salary increase can begin on the first day of reassignment but shall begin no later than the 16th day following the temporary promotion. (Rules Chapter 8.005)
- If your permanent position is covered by the NAPE labor contract, the salary increase will begin on the 16th day of the temporary reassignment and will be retroactive to the date the temporary transfer began. (NAPE Article 17.1)
- If your permanent position is covered by the SLEBC labor contract, you will receive a 5% temporary salary increase to begin on the 16th day of the temporary reassignment and be retroactive to the date the temporary transfer began. (SLEBC Article 19.1.1)
- Not applicable to employees covered by the SCATA labor contract.

15. Question: What types of paid leave are available to me if I am unable to work due to the natural disaster?

Answer: Vacation and compensatory time may be available for use if you have such time accrued. Contact your supervisor or human resources representative on the process to follow to request such paid time off. Agencies are encouraged to be as reasonable as possible in the approval of the use of vacation and/or compensatory time for conditions surrounding the natural disaster.

16. Question: I am a member of the National Guard, Army Reserve or other like group, and have been called to active duty as a result of an emergency situation. What happens to my pay during this time?

Answer: If the Governor has declared a state of emergency and you are ordered to active service of the state, you will receive your normal salary minus the state active duty base pay. (Neb. Rev. Stat. 55-160 (2014))

17. Question: What job protection do I have as a volunteer emergency responder?

Answer: A volunteer emergency responder is defined as: having been approved by a governing body in Nebraska to serve any volunteer fire department or volunteer first-aid, rescue, ambulance, or emergency squad, or volunteer fire company, associate, or organization serving any city, village or rural or suburban fire protection district by providing fire protection or emergency response services for the purpose of protecting life, health or property or a volunteer member of the Nebraska Wing of the Civil Air Patrol, the civilian auxiliary of the United States Air Force. (Neb. Rev. Stat. 35-1402)

If you satisfy the above definition and are performing voluntary response work as a result of an emergency, your employer may not terminate your employment or impose discipline as a result of your absence. However, every effort shall be made to notify your employer in advance of your absence due to an emergency situation. A deduction in wages may be assessed for hours away from your place of employment to respond. (Neb. Rev. Stat. 35-1403)

18. Question: Am I granted any type of leave as a certified disaster service volunteer of the American Red Cross?

Answer: With the authorization of your supervisor, you may be granted leave up to 15 working days in each year to participate in specialized disaster relief services in Nebraska for the American Red Cross. This leave does not result in a loss of pay, vacation time, sick leave or earned overtime accumulation. (Neb. Rev. Stat. 81-1391)

19. Question: Do I have an option to telecommute?

Answer: Telecommuting is a voluntary work alternative that allows an employee to work at home or in a satellite location for all, or part, of their regular workweek using information technology. Occasional work off-site, including work while traveling on State business, does not constitute telecommuting. Individual requests for a telecommuting arrangement must be directed through the appropriate process as identified in an agency's approved Telecommuting Policies. Approval or denial of such requests will be made by the agency in compliance with established policies and in response to specific business needs.

20. Question: What if I am furloughed as a result of an emergency situation?

Answer: Please refer to the Nebraska State Government Furlough Guide for more information and FAQs on this topic. <http://www.das.state.ne.us/personnel/classncomp/furlough.pdf>

21. Question: Can I substitute paid leave for my furlough days?

Answer: In a specific situation where employees are not furloughed due to lack of funds, accrued paid leave (vacation or compensatory time) may be used to supplement wages during a period of furlough. Accrued sick leave may not be used as a substitute.

22. Question: If I am furloughed, will I be eligible for unemployment insurance benefits?

Answer: Please refer to the Labor Dept. Unemployment Insurance Division website (<http://www.dol.nebraska.gov/>) for benefit information.

23. Question: What if I can't afford to pay my insurance premiums when I'm in a non-pay status?

Answer: For questions relating to insurance benefits, please contact the Employee Wellness and Benefits group at: 402-471-4443 or 877-721-2228. Or visit their website at: <http://das.nebraska.gov/benefits.html>

24. Question: Do I have the option of working four ten-hour days instead of five eight-hour days during this temporary reassignment?

Answer: Management reserves the right to establish, allocate, schedule, assign, modify, change and discontinue Agency operations, work shifts and working hours. Such schedule changes should be directed through the proper channels within your respective agency and will be decided based on business necessity.