

NIH POLICY MANUAL

2300-610-5 - MEAL PERIODS AND BREAKS

Issuing Office: OD/OHR/DETR, 594-1456

Release Date: 06/03/98

A. Purpose and Scope:

This issuance addresses mandatory and discretionary meal periods and work breaks applicable to work units that have not been accorded exclusive (union) recognition in a bargaining unit.

B. Policy:

1. Meal Periods -

- a. A meal period must be provided if the employee is scheduled to work 8 or more hours a day. Employees on an alternative work schedule, e.g., flexible and compressed work schedules to include variable day, variable week, and/or maxiflex schedule, must have a meal period if they work 8 or more hours a day.
- b. A meal period **may** be provided if the employee is scheduled to work more than 5 but less than 8 hours a day.
- c. A meal period is usually **not** provided if the employee is scheduled to work 5 or fewer hours a day, however; the employee's request for one may be granted at management's **discretion**.
- d. A meal period **may not** be skipped at the discretion of the employee in order to shorten the length of the work day.
- e. Employees who are required by their supervisors to work through their meal period **must** be given a meal period later in the same workday, be dismissed from duty an equivalent period of time at the end of the workday, or be compensated for working during the meal period.

2. Breaks -

- a. Are granted at the **discretion** of management and as such are an employee benefit, not an entitlement.
- b. May **not** be scheduled immediately before or after meal periods or at the start or end of the workday.

- c. May **not** be accumulated for use in lieu of leave.

References:

1. 5 CFR 610.121, Establishment of work schedules
2. HHS Instruction 610-1, Establishing and Administering Work Hours, Work Weeks, and Work Schedules

D. Definitions:

1. Work Break - A brief period of paid work time, e.g., 15 minutes or less, set aside at management's discretion for the efficiency, health, or safety of employees.
2. Meal Period - a minimum of one-half hour of unpaid time set aside for eating. A meal period is **not** considered to be part of the basic workweek/work requirement, except in those situations when the supervisor requires the employee to perform his or her regular duties while eating.

E. Management Controls:

1. Through this issuance, the Office of Human Resources Management, Office of the Director, NIH is accountable for the method used to ensure that management controls are implemented and working.
2. Frequency of Review: No Management Control Review will be required for this issuance due to the low inherent risk of abuse resulting from daily monitoring of employee use of breaks and lunch periods as part of the time and attendance system.

F. Records Retention and Disposal:

All records (e-mail and non-e-mail) pertaining to this chapter must be retained and disposed of under the authority of NIH Manual [1743](#), "Keeping and Destroying Records," Appendix 1, NIH Records and Control Schedule, Item 1900-D-3, Time and Attendance Report Files.

NIH e-mail messages. NIH e-mail messages(messages, including attachments, that are created on NIH computer systems or transmitted over NIH networks) that are evidence of the activities of the agency or have informational value are considered Federal records. **These records must be maintained in accordance with current NIH Records Management guidelines. Contact your IC Records Officer for additional information.**

All e-mail messages are considered Government property, and if requested for a legitimate government purpose, must be provided to the requester. Employees' supervisors, NIH staff conducting official reviews or investigations, and the Office of Inspector General may request access to or copies of the e-mail messages. E-mail

messages must also be provided to members of Congress or Congressional committees if requested and are subject to Freedom of Information Act requests. Since most e-mail systems have back-up files that are sometimes retained significant periods of time, e-mail messages and attachments may be retrievable from a back-up file after they have been deleted from an individual's computer. The back-up files are subject to the same requests as the original messages.

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Last Updated: 05/19/00

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