



## Governor's Office of Employee Relations

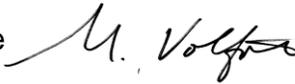
ANDREW M. CUOMO  
Governor

MICHAEL N. VOLFORTE  
Director

### MEMORANDUM

June 21, 2021

TO: Directors of Human Resources

FROM: Michael N. Volforte 

SUBJECT: Over40 Comp Time II Pilot Program  
2021-2022 Program Year

Under the Over40 Comp Time II Pilot Program (Over40 II), overtime-eligible state employees represented by CSEA, or DC-37 may opt to earn compensatory time at the time and one-half rate in lieu of overtime pay for hours worked in excess of 40 in a workweek and to cash out that time at a later date. The 2020-2021 program year concluded on June 23, 2021 (Administration Payroll), or June 16, 2021 (Institution Payroll).

Enrollments for eligible employees for the 2021-2022 program year, which will commence with the payroll period that includes July 1, 2021, must be submitted by employees *no later than close of business July 16, 2021*.

The determination of whether overtime is required remains a management prerogative, subject to the agency's operational and program needs. Over40 II does not create any new obligation to offer overtime to employees.

#### *Agency Implementation*

The following points apply when implementing Over40 II:

1. Over40 II replaces and nullifies any agency or local policy, program, practice, or labor-management agreement regarding compensatory time for hours worked over 40 hours in a workweek.

2. Compensatory time earned under Over40 II must be recorded in a separate column on an employee's time record. It cannot be commingled with overtime compensatory time for hours worked between 37.5 and 40 in a workweek. When employees who previously participated in the Over40 Comp Time Program under the 2003-2007 State-CSEA negotiated agreements (Over40 I) enroll in Over40 II, any existing Over40 I leave balance is incorporated into the Over40 II category and becomes subject to the provisions of the Over40 II program. For those employees, the time record column previously used to record Over40 I credits should be designated "Over40 II" and administered in accordance with the Over40 II provisions. Previous participants in Over40 I who do not enroll in Over40 II retain accrued Over40 I credits earned under that program. The time record column that their credits are currently recorded in should be designated "Over40 I" and continue to be administered in accordance with current Over40 I provisions. As explained more fully in the attached *Pilot Program Description*, employees cannot have both Over40 I and Over40 II leave balances at the same time.
3. The attached *Pilot Program Description* and enrollment form must be distributed to your employees represented by CSEA, or DC-37 as soon as possible.

PEF-represented employees are not currently eligible to enroll in the Over40 program in the 2021-2022 program year. Should their tentative 2019-2023 agreement ratify, PEF-represented employees will become eligible to participate and this office will furnish instructions for their enrollment.

If you have any questions, please contact your agency liaison at the Governor's Office of Employee Relations or the Attendance and Leave Unit of the Department of Civil Service.