

(ii) The special pay protection provided by paragraph (b)(6)(i) of this section does not apply to firefighters who voluntarily participate in training during non-duty hours, leave hours, or periods of excused absence. It also does not apply if the firefighter is entitled to a greater amount of pay based on actual work hours during the week in which training occurs.

(7) *Agency exemption.* An employee given training during a period not otherwise covered by a provision of this paragraph may be paid premium pay when the employing agency has been granted an exception to paragraph (a) of this section by the U.S. Office of Personnel Management.

(c) An employee who is excepted under paragraph (b) of this section is eligible to receive premium pay in accordance with the applicable pay authorities.

(d) Regulations governing overtime pay for employees covered by Fair Labor Standards Act (FLSA) during training, education, lectures, or conferences are found in § 551.423 of this chapter. The prohibitions on paying premium pay found in paragraph (a) of this section are not applicable for the purpose of paying FLSA overtime pay.

(e) Compensation for time spent traveling to and from training. (1) Compensation provisions are contained in 5 CFR 550.112(g) for time spent traveling for employees subject to title 5 of the United States Code.

(2) Compensation provisions are contained in 5 CFR 551.422 for time spent traveling for employees covered by the Fair Labor Standards Act. (See also 29 CFR 785.33 through § 785.41.)

[61 FR 66193, Dec. 17, 1996, as amended at 63 FR 64592, Nov. 23, 1998; 64 FR 69172, Dec. 10, 1999; 67 FR 15466, Apr. 2, 2002]

§ 410.403 Payments for temporary duty training assignments.

Section 4109(a)(2) of title 5, United States Code, provides that an agency may pay, or reimburse an employee for, all or a part of the necessary expenses of training, including the necessary costs of travel; per diem expenses; or limited relocation expenses including transportation of the immediate family, household goods and personal effects:

(a) If an agency chooses to pay per diem, or in unusual circumstances the actual subsistence, expenses for an employee on a temporary duty training assignment, payment must be in accordance with 41 CFR part 301-7 or 41 CFR part 301-8 (or, for commissioned officers of the National Oceanic and Atmospheric Administration, in accordance with sections 404 and 405 of title 37, United States Code, and the Joint Federal travel Regulations for the Uniformed Services).

(b) An agency may pay a reduced per diem rate, such as a standardized payment less than the maximum per diem rate for a geographical area. If a reduced or standardized per diem rate was not authorized in advance of the travel and the fees paid to a training institution include lodging or meal costs, an appropriate deduction shall be made from the total per diem rate payable on the travel voucher (see 41 CFR 301-7.12).

(c) An agency may pay limited relocation expenses for the transportation of the employee's immediate family, household goods and personal effects, including packing, crating, temporarily storing, draying, and unpacking the household goods in accordance with section 5724 of title 5, United States Code (or, for commissioned officers of the National Oceanic and Atmospheric Administration, in accordance with sections 406 and 409 of title 37, United States Code, and the Joint federal travel Regulations for the uniformed Services). Limited relocation expenses are payable only when the estimated costs of transportation and related services are less than the estimated aggregate per diem or actual subsistence expense payments for the period of training. An employee selected for temporary duty training may receive travel and per diem (or actual subsistence expenses) for the period of the assignment or payment of limited relocation expenses, but not both.

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§ 410.404 Determining if a conference is a training activity.

Agencies may sponsor an employee's attendance at a conference as a developmental assignment under section