



workweek works at two or more different types of work for which different hourly rates of pay have been established, his or her regular rate for that week/s the weighted average of those rates. However, if the employer meets certain conditions, Section 7(g)(2) permits an employer to pay an employee overtime compensation at one and one-half times a different hourly rate than the employee's regular hourly rate. If an employer wishes to use the Section 7(g)(2) alternative compensation calculation, the employer must satisfy the following four requirements.

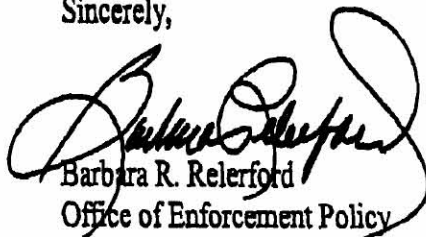
- (1) the employee must perform two or more kinds of work;
- (2) the employer must establish a bona fide different hourly rate for those different kinds of work;
- (3) the compensation must be paid pursuant to an agreement or understanding arrived at between the employer and the employee in advance of the performance of the work; and
- (4) the compensation must be computed at rates not less than one and one-half times such rates applicable to the same work when performed during non-overtime hours.

Accordingly, the Wage and Hour Division would agree that Section 7(g)(2) may apply in the situation you describe so that the employees are compensated at the overtime rate that corresponds to the job performed during their overtime hours. 29 U.S.C. §207(g)(2); 29 CFR §778.419. See also Opinion Letters of December 16, 1980, July 1, 1986, and November 10, 1986 (enclosed).

This opinion is based exclusively on the facts and circumstances described in your request and is given on the basis of your representation, explicit or implied, that you have provided a full and fair description of all the facts and circumstances which would be pertinent to our consideration of the question presented. Existence of any other factual or historical background not contained in your request might require a different conclusion than the one expressed herein. You have represented that this opinion is not sought by a party to pending litigation concerning the issue addressed herein. You have also represented that this opinion is not sought in connection with an investigation or litigation between a client or firm and the Wage and Hour Division or the Department of Labor.

We trust that the above information is responsive to your inquiry.

Sincerely,



Barbara R. Reierford  
Office of Enforcement Policy  
Fair Labor Standards Team