

Summary of CBP's BPAPRA Directive



National Border Patrol Council

On January 10, 2016, CBP will implement the Border Patrol Agent Pay Reform Act (BPAPRA) directive. Although the directive was not fully and completely negotiated with the NBPC, it is important for all agents to be familiar with the content of the CBP directive and the regulations written by the Office of Personnel Management, beginning at 5 CFR § 550.1601.

Below are important points from the directive that you should be aware of, as they may have a direct and daily impact on you:

- Advanced training, which includes quarterly firearms qualifications, quarterly use of force training, first aid/CPR, among others, are 8-hour days with no obligation to work overtime on those days, regardless of election level.
- During the first 60 workdays of advanced training in a calendar year, an agent will continue to earn the full overtime supplement of their elected tour of duty. However, upon the 61st day, all subsequent advanced training days will be paid at Basic Level.
- When computing the "10% rule," bargaining unit personnel and non-bargaining unit personnel will have their own 10% allotment. Elections to Level 2 and Basic tours of duty will be based on seniority.
- Agents may request an unpaid meal break interrupting the workday, subject to supervisor approval. Supervisors may not order an unpaid meal break if an agent has not requested one.
- There is no obligation to work overtime on a day in which the agent takes eight hours of paid leave. If an agent works a portion of a day, but is then absent from any portion of the obligated overtime, a debt will be accrued. For example, if an agent works four hours and then takes leave, there would be four regular hours, four hours of leave, and an overtime debt of two hours.
- When an agent reaches an obligated debt of 24 hours, management will consult with the employee to find out if there are any problems, however once the debt reaches 60 hours, the employee will be moved to Basic Level. At that point, management can still require them to work 10-hour days, even though they are at the Basic Level, but the last two hours will now just go toward paying back the accrued debt until they get it down to a reasonable number.
- If an agent is experiencing a personal or family hardship and needs to temporarily drop to Basic Level, they can do so for 4 to 12 pay periods. However, if they only need 1 to 3 pay periods, they can request a waiver of that 4 to 12 pay period requirement.
- An agent will be immediately moved to the Basic Level if the agent's law enforcement authority is suspended or revoked. The agent's authority will be restored on the day the agent returns to full work duties.
- No agents, including those in their control period, may be excluded from consideration for a detail or collateral duty based upon their assigned BPAPRA level. That means that the agency

cannot exclude agents simply because they are working Level 2 or Basic. Work will be assigned without regard to the elected level.

- Canine handlers will continue to work nine hours in the field and then end their day, with the 10th hour being used for canine care. There is no requirement to end your 9th hour at your station, as handlers can simply leave from their assignment at the end of the 9th hour. The key factor is that handlers simply have to be in the field for nine hours.
- Agents are not allowed to earn more than 10 hours of comp time in a pay period without written approval from a supervisor – this approval can be in e-mail form. If you have a busy week and burn through the 10 hours in the first four days of a pay period, your supervisor can approve and notify you via e-mail that you are authorized to earn additional hours of comp time.
- Agents with an overtime debt can work with their supervisors to request that they be scheduled additional overtime in increments of 15 minutes or more to satisfy the debt. For example, if an agent owes two hours, an agent can request that a supervisor schedule two hours on a Thursday or 30 extra minutes per day for four days. Agents should ensure that they keep track of their debt and work with their supervisors to schedule time to make it up.
- Before working past the end of their regular tour of duty (while tracking a group, for example), agents must attempt to contact their supervisor via service radio or any other means of communication for approval. However, if the agent is unable to contact a supervisor and the agent believes that ending the shift and heading to the station would constitute negligence or dereliction of duty, the agent will remain on duty and those hours may be approved after the fact as irregular overtime. Agents must continue to try to contact a supervisor during this time frame.
- BPAPRA comp time must be used within 26 pay periods after it was earned or it will be forfeited.
- If multiple agents are requesting to use comp time on the same day, the usage will be determined by seniority.
- Pre-approved annual leave will take priority over the scheduling of BPAPRA comp time.
- Agents will not have their regularly scheduled days off duty or leave adjusted to accommodate another agent's comp time request.
- When requested, the agency will schedule BPAPRA comp time in conjunction with an agent's regularly scheduled days off from duty or leave, when feasible.
- Injured agents on light/limited duty will be allowed to work their elected tier – this means a station can't force an agent to work Basic and lose out on OT just because they are injured and on light/limited duty.
- When CBP calculates an agent's career average supplement percentage (for the control period), agents can request and will receive a copy of that calculation to review for errors.

Both the NBPC and CBP have concerns with the regulations written by OPM, so there are plans to legislatively address specific issues, including canine pay and the loss of compressed work schedules.

There will be a learning curve for everyone, so it's important that agents reach out to their local union representatives and report problems so they can be addressed.