

# NIH Policy Manual

## 2300-610-5 - Meal Periods and Breaks

**Issuing Office:** OD/OM/OHR/WRD **Phone:** [\(301\) 496-2404](tel:3014962404)

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Transmittal Notice

1. **Explanation of Material Transmitted:** This chapter describes mandatory and discretionary meal period and work breaks for work units not accorded union recognition in a bargaining unit.
2. **Filing Instructions:**

**Remove:** Manual Issuance 2300-610-5, dated 06/03/98.

**Insert:** Manual Issuance 2300-610-5, dated 5/22/09.

**PLEASE NOTE:** For information on:

- Content of this chapter, contact the issuing office listed above.
- NIH Manual System, contact the Division of Management Services, OMA on 496-2832, or enter this URL: <http://oma.od.nih.gov/manualchapters/>.

### 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.

## C. 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. Internal Controls

1. Through this issuance, the Office of Human Resources, Office of the Director, NIH is accountable for the method used to ensure that internal controls are implemented and working.
2. Frequency of Review: No Internal 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.