



Audit of County Adherence to New York State Labor Law §162 & County KRONOS Workforce Policies

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Report Index

Report Section	Section Name	Page Number
I	Background and Executive Summary	2
II	Scope and Methodology	4
III	Findings and Recommendations	5
IV	Exhibits	12
V	Departmental Response	18

Section I

Background and Executive Summary

Background

New York State Labor Law §162 sets forth the required meal periods for employees in New York State. To be in compliance with the law the County must demonstrate it has allowed its employees to have a meal break. It contains different requirements for factory and non-factory workers and covers all private and public sector employers and their employees who work in New York State.

Though it lacks specific language, many interpret that New York State Labor Law §162 as applying to all employees in New York—from collectively bargained groups to management confidential employees, from entry level employees to top management—unless there is a special contract or provision from the NYS Department of Labor to allow for a less than thirty minute lunch period. Based on our inquiries and conversations with County administrators nothing has been provided to us indicating Onondaga County has such a contract or provision in effect.

In addition to New York State Labor Law §162, there is County-specific policy for employees documenting their daily lunch break. A 2009 memo from the County's Workforce Management time and attendance software (KRONOS) Executive Oversight Committee to Department Heads, Personnel Officers and Payroll Clerks established a KRONOS policy for County employees to record and document their work day (see Section IV, Attachment B). Per the memo, all employees except elected officials, department heads and their true deputies need to account for their time in KRONOS. All other employees, including management confidential and salaried employees, need to either swipe or use another approved form of time entry. The memo also states that for these employees a lunch break is mandatory, except for those in departments with 24/7 shift operations whose employees are paid for their lunch break and are not permitted to leave their facility.

Not allowing an employee their meal break can be a violation of the law and result in penalties and/or fines. Employees whose time records do not indicate they are taking a lunch break could potentially bring a claim against the County stating they were not offered the meal break in accordance with the law and best practices. Lastly, not documenting their lunch break allows some County employees to accrue Compensation Time Earned (CTE) and earn Overtime (OT).

The County can easily document its adherence to New York State Labor Law §162 for the majority of its approximately 3,000 employees by having them properly use KRONOS each day for one of its most basic intended purposes---the tracking of employee attendance and monitoring employee absenteeism and leave time to ensure a full day of work is properly recorded. To record their start time, lunch time and end time each day in KRONOS, employees can manually swipe their County ID badge through one of the KRONOS kiosks located in County buildings. There are also options

for employees to “timestamp” in/out using software that can be loaded onto their computer or “tele-time” in/out using a telephone-based tool. One other option is to setup an automation in KRONOS that will “auto deduct” the appropriate amount of time each day for an employee’s lunch. This option can be of particular use to departments with special circumstances because it negates the need for an employee to use any of the manual time tracking methods.

New York State has created law and Onondaga County has created policy for employees documenting their lunch break each work day of six hours or more. The County has invested significant financial resources for a technology-driven means for complying with that law and policy. By using the technology and following the policy, a high percentage of the County workforce’s adherence to New York State Labor Law §162 would be easily documented and stored should the County be audited or sued. Using the technology and following the policy would also reduce costs for CTE and OT earned by employees each pay period and annually.

Executive Summary

During the course of the audit we noted the following:

- 1) The County cannot fully support its compliance with New York State Labor Law §162 in that it cannot demonstrate it has allowed its employees to have a meal break because many County employees do not record their lunch period in KRONOS.
- 2) Many departments are not in compliance with the County-wide policies outlined in the memo from the KRONOS Executive Oversight Committee and the Employee Handbook related to time clock procedures for County employees.
- 3) Some employees are earning CTE and OT when they do not punch for their lunch break.
- 4) Employees are responsible for recording their meals breaks in KRONOS, failure to do so requires extra work on the part of departmental payroll clerks.

Recommendations:

- A) *County Administration should review the existing County timekeeping policies from the 2009 KRONOS committee memo and Employee Handbook and then share, implement and enforce those policies. The County policies should work towards substantiating compliance with New York State Labor Law §162.*
- B) *County Administration should consider mandating automatic punches to record a meal break for certain unique work situations in which traditional methods for an employee to document their time worked are not available to them.*

Section II

Scope and Methodology

Scope and Objectives

The scope of this audit was CSEA hourly and salaried employees employed in 2024 from the 62, 64, 65 and 67 pay groups who are required to punch for lunch. Employees were randomly selected from the below departments.

Lunch Law Audit Selected Departments

- 1 Adult & Long Term Care (A<C)
- 2 Children & Family Services (C&FS)
- 3 Community Development (CD)
- 4 Diversity & Inclusion (DI)
- 5 Financial Operations (FO)
- 6 Health (HD)
- 7 Information Technology (IT)
- 8 Personnel (PER)
- 9 Planning (PL)
- 10 Purchasing (PU)

Our objectives for this audit were to determine if:

- The County was in compliance with New York State Labor Law §162.
- Employees were effectively using the KRONOS system as detailed in the May 14, 2009 memo from the KRONOS Executive Oversight Committee.
- Departments follow established procedures relating to employees recording their time.
- Employees are earning Compensation Time Earned (CTE) and Overtime (OT) while working thru lunch.
- Inefficiencies exist as to the use of manual overrides and entries due to employees working outside of their scheduled hours.

Methodology

In order to complete our objectives we:

- Reviewed New York State and Onondaga County laws, policies, procedures and regulations.
- Conducted interviews with managers and staff related to the departments payroll.
- Selected a sample of employees and analyzed their KRONOS activity.
- Inquired of the Personnel Department of any written documentation relating to time clock procedures.

Section III

Findings and Recommendations

New York State Labor Law §162 sets forth the required meal periods for employees in New York State. It contains different requirements for factory and non-factory workers and covers all private and public sector employers and their employees who work in New York State. The full law can be found at (<https://www.nysenate.gov/legislation/laws/LAB/162>). The area which pertains to Onondaga County is as follows:

- Every person employed in or in connection with a mercantile or other establishment or occupation coming under the provisions of this chapter shall be allowed ***at least thirty minutes*** for the noon day meal, except as in this chapter otherwise provided. The noon day meal period is recognized as extending from eleven o'clock in the morning to two o'clock in the afternoon. An employee who works a shift of more than six hours which extends over the noon day meal period is entitled to at least thirty minutes off within that period for the meal period.

In addition to New York State Labor Law §162, there is also Onondaga County-specific policy for employees taking and documenting their daily lunch break. In May 2009, a group of high level County administrators designated as the KRONOS Executive Oversight Committee issued a memo to Department Heads, Personnel Officers and Payroll Clerks related to KRONOS use by County employees and the recording and documentation of their work day. The memo, entitled “KRONOS Policies”, outlined which County employees should be using KRONOS each day and how (Exhibit B). Specifically, it stated:

1. “Everyone except elected officials will have their time accounted for by the Workforce Central system. Department heads and their true deputies are exempt from swiping. Everyone else, including all m/c employees and salaried employees will either swipe or use some other approved form of time entry.”
2. “We will continue to require the same accountability for lunch as with prior manual time recording in accordance with work rules that require punching in and out for lunch and personal business. Exemptions to lunch punching are limited to those 24/7 shift operations whose employees are paid for their lunch break and are not permitted to leave their facility.”

Furthermore, there is the 2009 Onondaga County Employee Handbook’s Overtime section page. 9, which indicates, “All overtime worked must be authorized in advance by your supervisor.” Also, in Appendix B – Discipline, page 41 states, “The following acts or conduct are prohibited and will result in disciplinary action up to and including discharge.” Rule #6. States Failure to sign and or punch in and out: a.) At the beginning and end of the work period: b.) At lunch time:

C.) When leaving the work areas on personal business are subject to the following penalties: 1st offense is an oral warning, 2nd is a written reprimand, 3rd is suspension and the 4th or repeated offense is discharge.

The below findings all stem from County employees NOT punching for a lunch break as per established policies, which under mines the County's ability to demonstrate they are in fact allowing employees to take a lunch break as required by NYS Labor Law §162. To paraphrase from Exhibit A "Frequently Asked Questions"; ***Can employees have the option of either having a meal break or leaving work earlier at the end of a shift?*** ". . . Employees may waive their rights to a meal period under Section 162 only if the requirements of the waiver set forth by New York courts are met. The option of leaving early does not constitute a sufficient employee benefit upon which to satisfy the third of those requirements, as it merely substitutes time off during a workday for time off at the end of a workday. This does not mean that an employer and employee cannot agree that the employee may work through a meal period in exchange for being able to leave work early on an ***occasional*** basis due to employee needs. However, the employer and employee cannot agree to such a situation on a ***long-term, regular*** basis.

It appears either by supervisory direction or self-determination, employees are not punching for lunch and earning benefits which may not be actually authorized by department heads, County administrators and quite possibly circumventing the established time and attendance approval process.

Finding 1:

The County cannot fully demonstrate its compliance with New York State Labor Law §162 as many County employees who are required to track their time in KRONOS do not record their daily meal break when working more than six hours. These departments are also, not in compliance with the County-wide policies outlined in the KRONOS Executive Oversight Committee dated May 14, 2009 related to time clock procedures for County employees.

We analyzed 115 employee's KRONOS activity and categorized their lack of lunch punches into several ranges from no misses up to 100+ missed lunch punches. Of the 115, 52 employees missed punching for lunch 25 or more times as detailed below. This gives the appearance the County is not allowing employees to take a lunch break and be out of compliance with New York State Labor Law §162.

Summary Results
Number of Times in 2024
Employees Missed a Lunch Punch

Dept.	Number of Tested Employees	Range of Missed Punches				
		0	1 - 11	12 - 24	25 - 99	100 +
1 A<C	14	1	6	3	3	1
2 C&FS	27	-	2	-	16	9
3 CD	9	-	-	-	-	9
4 DI	3	-	1	2	-	-
5 FO	9	2	1	1	3	2
6 HD	18	5	9	2	1	1
7 IT	7	1	1	3	-	2
8 PER	7	-	3	2	2	-
9 PL	7	-	2	2	3	-
10 PU	14	6	8	-	-	-
	<u>115</u>	<u>15</u>	<u>33</u>	<u>15</u>	<u>28</u>	<u>24</u>

Tested employees were in the following pay group #'s 62, 64, 65 & 67, classified as either CSEA salaried or hourly.

Of the 14 A<C ~ 1 employee punched as required as compared to 6 employees who missed punching at least once and up to 11 times during 2024.

To further illustrate the significance of non-compliance with established procedures we estimated the total number of our testing pool respective of their departments in relation to the 25 and over ranges and determined all of Community Development and a majority of Children & Family Services do not punch for lunch on a consistent basis. This is illustrated on the following page.

**Extrapolation of Employees Missing a Lunch Punch
Compared to their Respective Department
In the Range of 25 to Over 100 times**

Dept.	Estimated Number of Employees	Number of Tested Employees	Combined Total of 25 - 100+	Extrapolated Total of Employees NOT Punching 25 - 100+
1 A<C	40	14	4	12
2 C&FS	252	27	25	234
3 CD	9	9	9	9
4 DI	3	3	0	0
5 FO	37	9	5	21
6 HD	207	18	2	23
7 IT	43	7	2	13
8 PER	12	7	2	4
9 PL	7	7	3	3
10 PU	14	14	0	0
	624	115	52	319

**The 624 estimated number of employees are in 62 , 64, 65 & 67
CSEA hourly and salaried pay groups.**

Finding 2:

We determined based on our analysis of the selected employees KRONOS activity, not punching for lunch is resulting in comp time and overtime pay and leaving earlier than their scheduled hours without the use of accrued leave time. The illustrations on the following two pages are **only** the employees who earned comp time and overtime. It details the department, their respective employee by job title, their regular and overtime wages as a whole for the 2024 year and the number of times a lunch punch was missed and the number of times comp time or overtime was earned. As an example the Senior Caseworker in A<C did not punch for lunch 110 times during 2024 and it generated 30 instances where comp time was earned and 75 instances whereby overtime was paid, the remaining 5 times did not result in either and possibly resulted in an early dismissal. An additional example is Community Development's Housing Rehab Inspector, who did not punch for lunch 229 times and earned comp time 67 times but did not generate any overtime. We are taking the position employees are not working gratuitously and are deriving a benefit. Also, by no means is it implying the full amount of overtime was generated from not punching for lunch. We estimated 247 working days in a 52 week calendar year.

**Employees NOT Punching for Lunch
Resulting in Comp Time and OT
Earned During 2024**

Dept.	Title	2024			Total # of Missed Lunch Punches	Determined Results of NOT Punching for Lunch # of times COMP or OT was Earned	
		Regular Pay	Overtime Pay	Gross Pay		COMP	OT
A<C	Senior Caseworker	69,492	11,144	80,636	110	30	75
A<C	Case Supervisor B	73,865	3,841	77,706	43	10	25
A<C	Case Supervisor B	73,865	630	74,495	39	25	7
A<C	Case Worker	65,070	2,274	67,344	29	21	7
A<C	Senior Caseworker	69,492	1,590	71,082	22	0	17
A<C	Typist 2	43,397	-	43,397	16	1	0
A<C	Case Supervisor B	73,865	7,641	81,506	13	6	3
A<C	Typist 2	52,726	-	52,726	11	5	0
C&FS	Case Worker	62,008	47,673	109,681	189	54	115
C&FS	Case Worker	65,245	52,636	117,881	185	90	69
C&FS	Case Worker	65,070	71,926	136,996	170	0	150
C&FS	Case Supervisor A	81,650	42,921	124,571	168	24	114
C&FS	Case Worker	65,070	26,375	91,445	163	142	14
C&FS	Case Worker	60,948	7,010	67,958	151	45	15
C&FS	Senior Caseworker	65,802	42,407	108,209	147	7	132
C&FS	Senior Caseworker	69,454	13,073	82,527	138	24	106
C&FS	Senior Caseworker	69,454	13,527	82,981	106	49	24
C&FS	Senior Caseworker	68,454	31,542	99,996	97	59	27
C&FS	Case Worker	63,412	5,390	68,802	95	58	25
C&FS	Case Worker	65,070	18,351	83,421	91	43	36
C&FS	Case Worker	65,070	3,834	68,904	87	32	37
C&FS	Case Supervisor B	61,499	9,173	70,672	85	23	1
C&FS	Case Supervisor A	79,876	-	79,876	85	59	0
C&FS	Case Supervisor B	73,865	153	74,018	72	35	1
C&FS	Senior Caseworker	65,627	21,649	87,276	70	42	7
C&FS	Case Supervisor B	73,865	39,924	113,789	61	4	51
C&FS	Senior Caseworker	69,454	24,248	93,702	35	0	34
C&FS	Case Worker	65,070	37,813	102,883	34	24	3
C&FS	Case Worker	65,070	32,437	97,507	34	0	31
C&FS	Case Supervisor B	73,865	15,026	88,891	30	14	14
C&FS	Case Worker	65,245	23,668	88,913	28	15	0
C&FS	Senior Caseworker	65,802	12,545	78,347	27	2	23
C&FS	Case Worker	65,070	412	65,482	26	12	1
C&FS	Case Worker	65,070	26,548	91,618	11	7	2
C&FS	Senior Caseworker	69,454	3,005	72,459	7	2	5

**Employees NOT Punching for Lunch
Resulting in Comp Time and OT
Earned During 2024**

Continued

Dept.	Title	2024			Total # of Missed Lunch Punches	Determined Results of NOT Punching for Lunch # of times COMP or OT was Earned	
		Regular Pay	Overtime Pay	Gross Pay		COMP	OT
CD	Housing Rehabilitation Inspect	60,659	-	60,659	240	4	0
CD	Housing Rehabilitation Inspect	59,818	-	59,818	237	7	0
CD	Housing Rehab Ins	56,560	-	56,560	229	67	0
CD	Housing Rehabilitation Special	60,659	-	60,659	218	9	0
CD	Housing Rehabilitation Inspect	60,659	-	60,659	204	26	0
CD	Architect 1	68,701	-	68,701	195	12	0
CD	Housing Rehabilitation Inspect	59,439	-	59,439	183	13	0
CD	Project Coordinator (Comm Dev)	73,865	-	73,865	182	143	0
DI	Human Rights Specialist	22,070	-	22,070	23	15	0
DI	Financial Readiness Officer	51,480	-	51,480	21	10	0
FO	Account Clerk 2	49,946	-	49,946	144	86	0
FO	Accountant 2	66,956	-	66,956	117	5	84
FO	Accountant 2	65,949	13,143	79,092	98	0	94
FO	Account Clerk 2	48,484	-	48,484	58	10	0
FO	Accountant 2	55,962	-	55,962	50	1	0
FO	Accountant 2	69,456	-	69,456	19	5	0
HD	Sanitarian 3	90,138	620	90,758	116	77	12
HD	Program Coord (Hlthy Start)	81,650	-	81,650	64	27	0
HD	Program Coordinator (Health)	67,762	7,052	74,814	20	9	6
HD	Sanitarian 1	65,071	-	65,071	12	9	0
HD	Community Health Counselor	56,561	275	56,836	11	9	0
HD	Public Health Analyst II	64,549	412	64,961	11	10	0
HD	Chief Forensic Investigator	92,734	12,185	104,919	9	1	2
HD	Forensic Investigator 1	59,292	17,517	76,809	8	0	6
HD	Communicable Disease Inv	51,799	-	51,799	8	7	0
HD	Weights And Measures Inspector	55,962	805	56,767	7	2	0
HD	Public Health Soc Work Asst (H	54,816	-	54,816	2	2	0
HD	Public Hlth Social Work Ast	60,659	117	60,776	1	1	0
IT	Systems Administrator	73,865	11,331	85,196	160	41	56
IT	Office Automation Analyst	90,138	2,125	92,263	20	4	0
IT	Enterprise Design Specialist	89,356	2,470	91,826	18	5	0
IT	Office Automation Analyst	90,137	-	90,137	17	2	0
IT	Junior Enterprise Support Spec	62,160	-	62,160	1	1	0
PER	Payroll Supervisor	56,420	-	56,420	35	27	0
PER	Payroll Clerk 2	48,619	386	49,005	27	26	0
PER	Payroll Clerk 2	51,579	-	51,579	20	13	0
PER	Payroll Clerk 2	41,634	-	41,634	7	5	0
PL	Planner 1	69,457	-	69,457	57	16	0
PL	Planner 1	66,981	92	67,073	51	7	0
PL	Planner I (HELP Program)	29,110	-	29,110	20	6	0
PL	Planner 2	73,737	-	73,737	13	5	0
PL	Planner 2	81,650	-	81,650	8	7	0
PU	Buyer 1	50,682	-	50,682	5	5	0
PU	Specification Writer	70,609	-	70,609	1	1	0

Recommendations

County administration should review the existing May 14, 2009 KRONOS memo and determine if it needs updating or should be redistributed and hold department heads accountable for compliance.

County administration should consider programming KRONOS's software to automatically record lunch punches and have employees complete time adjustment reports when they have worked through lunch. This would document that employees were in fact allowed to take a lunch as per NYS's Labor Law §162. This will also improve payroll clerk's efficiency as they will no longer be required to manually enter lunch punches for those employees without direct access to a time clock or computer.

Reoccurring Issues

A 2014 Comptroller's Office audit entitled "Compensatory Time and Related Paid Time Off" reported similar patterns of KRONOS use were noted and a recommendation was made (see below). This audit indicates since the 2014 audit's findings were shared, no effective actions have been taken by departments or County administration to assure documented compliance with New York State Labor Law §162. This finding was also added to the 2021 "Audit of New York State Labor Law §162".

2014 Compensatory Time and Related Paid Time Off

Finding and Recommendation # 1:

Finding:

During testing it was noted certain employees do not take a lunch on a consistent basis and accumulate compensatory time weekly. While it is recognized employees may work through their lunch with the appropriate permission, doing so daily is an abuse of this privilege. The assertion these employees do not stop working to eat lunch is not likely, yet they are accruing compensatory time on a constant basis.

Recommendation:

The privilege of working through lunch should be monitored closely not given blindly. Controls should be put in place to ensure abuse is eliminated and employees only accrue compensatory time when it is absolutely necessary.

Recommendation

Each County department should select and adhere to an Administration-approved method for their employees (or category of employees) to use KRONOS so as to ensure adherence to New York State Labor Law §162 and ensure CTE, OT are being accrued appropriately.

Section IV

Exhibits

EXHIBIT A

From: <https://labor.ny.gov/legal/counsel/pdf/meal-and-rest-periods-frequently-asked-questions.pdf>

Meal and Rest Periods Frequently Asked Questions (FAQ)

Labor Law Section 162 sets forth the required meal periods for employees in New York State.

- Factory Workers are entitled to a 60-minute lunch break between 11:00 a.m. and 2:00 p.m. and a 60-minute meal break at the time midway between the beginning and end of the shift for all shifts of more than six hours starting between 1:00 p.m. and 6:00 a.m. and lasting more than six hours.
- Non-Factory Workers are entitled to a 30-minute lunch break between 11:00 a.m. and 2:00 p.m. for shifts six hours or longer that extend over that period and a 45-minute meal break at the time midway between the beginning and end of the shift for all shifts of more than six hours starting between 1:00 p.m. and 6:00 a.m.
- All Workers are entitled to an additional 20-minute meal break between 5:00 p.m. and 7:00 p.m. for workdays that extend from before 11:00 a.m. to after 7:00 p.m.

Section 162 also allows the Commissioner to permit shorter meal periods upon application by the employer and if the Commissioner believes such modifications are warranted by special circumstances.

Who is covered by Section 162 of the Labor Law?

All private and public sector employers and their employees who work in New York State are covered by the law. However, the law contains different requirements for factory workers and non-factory workers.

Who is a factory worker?

Section 162 has different meal period requirements for persons “employed in or in connection with a factory.” A factory includes a mill, workshop, or other manufacturing establishment and includes all buildings, sheds, structures or other places used for or in connection with these establishments. A factory does not include dry dock plants engaged in making repairs to ships, power houses, generating plants and other structures owned or operated by a public service corporation. Any employee who works in or whose primary duties involve the maintenance and/or operation of a factory is a factory worker for the purposes of Section 162 of the Labor Law.

EXHIBIT A - continued

Where only one employee is on duty, is that employee required to be provided with an uninterrupted meal period?

In some instances where only one person is on duty or is the only one in a specific occupation, it is customary for the employee to eat on the job without being relieved. The Department of Labor will accept these special situations (The “One-Employee Shift” exception) as compliance with Section 162, where the employee voluntarily consents to the arrangements. However, an uninterrupted meal period must be afforded to every employee who requests this from an employer prior to consenting to the arrangement.

To demonstrate that voluntary consent to such one-employee shifts has been given, an employer must explain to the employee that:

- The nature of the industry in which the employer operates necessitates one-employee shifts.
- The employee’s meal periods may be interrupted.

The employer must then obtain an acknowledgement, preferably in writing, by the employee, either:

- When the employee is hired.
- Before the time the employee would be expected to give up his/her uninterrupted meal periods.

An employer cannot use mere acceptance of a job or continued employment without objection as an acknowledgement. If an employee works through a meal period due to one-employee shift requirements, the employee must be paid for such meal period. Once an affirmative acknowledgement is given by an employee, it cannot be revoked without a change in circumstances.

Are employees required to be paid for meal period time?

Meal periods that meet statutory requirements are not required to be counted as “hours worked” and employees are not required to be paid for such time. (See answer above for situations in which employees work through meal periods.)

Are ‘brown bag lunches’ permissible in New York State?

“Brown bag lunches” are where employees eat their lunch while listening to a speaker or some sort of presentation. The topics of such lunches may be work-related or not related to work (e.g. related to health and wellness issues, personal finances, retirement). Employees must be allowed an uninterrupted meal period and must be free to leave their work area(s) and engage in other pursuits.

EXHIBIT A - continued

If employees are required by their employers to attend such working or brown bag lunches (typically on topics related to work), they do not count as a meal period and must also be counted as time worked. Employees who voluntarily choose to attend such lunches on topics, are receiving a meal period under the law.

May employees consent to not taking a meal period?

The New York State Court of Appeals, New York's highest court, held that, in a situation where there was a collective bargaining agreement that provided for a waiver of statutory meal periods in exchange for additional breaks and meal periods scheduled at other times, employees may waive their rights under the Labor Law. Such waivers must include the following:

- The operational needs of the industry make strict compliance with the meal period provisions impractical
- The waiver was obtained openly and knowingly, absent of duress or coercion, through good faith negotiations
- The employees received a desired benefit through the negotiations in return for such a waiver

The Court of Appeals decision, ABC Broadcasting v. Roberts, can be found at 61 N.Y.2d 244 (1984).

Does the Commissioner permit shorter time periods?

The Department will permit a shorter meal period of not less than 30 minutes as a matter of course, without application by the employer, so long as there is no indication of hardship to employees. A meal period of not less than 20 minutes will be permitted only in special or unusual cases after investigation and issuance of a special permit.

How does an employer apply for a shorter time period?

An application may be found on the Department's web site at the following link:

<http://www.labor.ny.gov/formsdocs/wp/l284.pdf>

May an employer require employees to remain at work during meal breaks?

There is nothing in the Labor Law that requires that an employee be permitted to leave the work premises for the meal period, so long as the employee is completely freed from duties during the meal period. Employees must be completely relieved from duty for the purposes of providing meal periods and an employee is not relieved if he or she is required to perform any duties, whether active or in-active, during that period. While employees may remain at their desk or in their work area during a meal break, they must be effectively relieved of their duties during that period. In general, employees who are required to remain at their desk or workstation during meal periods

EXHIBIT A - continued

are not considered to be completely relieved of their duties. It is important to note, however, the one-employee shift exception discussed above allows for a general exception to this rule.

May employers round starting and stopping time for counting meal period requirements?

Yes. Rounding of time is a practice where employers will round the beginning and/or end of a shift or meal period to an interval. For example, rounding occurs when an employee arrives at work at 8:02 and the time records note that the employee arrives at 8:00. The Department follows the principles set forth in federal regulations (29 CFR §785.48(b)) with regard to the rounding of time. That regulation recognizes that rounding is commonly accepted in industry at intervals ranging from 5 to 15 minutes and permits such rounding. Extending this rounding regulation to the meal period requirements is proper, so long as rounding of starting and stopping time for the counting of meal period requirements does not, over a period of time, result in a failure provide employees with the required meal periods. In short, rounding of time is permissible as long as it does not result in employees losing time.

Must employees be paid for breaks and rest periods?

While the Labor Law does not require that employers provide rest periods of short duration, if they are provided to or taken by employees, they must be counted as working time. The Department follows Federal Regulation 29 CFR §785.18 which provides that rest periods of short duration, running from 5 minutes to about 20 minutes, are common in industry. They promote the efficiency of the employee and are customarily paid for as working time. They must be counted as hours worked. Compensable time of rest periods may not be offset against other working time such as compensable waiting time or on-call time. Unauthorized extensions of authorized work breaks need not be counted as hours worked when the employer has expressly and unambiguously communicated to the employee that:

- The authorized break may only last for a specific length of time.
- Any extension of the break is contrary to the employer's rules.
- Any extension of the break will be punished.

Can employees have the option of either having meal break or leaving work earlier at the end of a shift?

As discussed above, employees may waive their rights to a meal period under Section 162 only if the requirements of the waiver set forth by New York courts are met. Furthermore, the option of leaving early does not constitute a sufficient employee benefit upon which to satisfy the third of those requirements, as it merely substitutes time off during a workday for time off at the end of a workday. This does not mean that an employer and employee cannot agree that the employee may work through a meal period in exchange for being able to leave work early on an occasional basis due to employee needs. However, the employer and employee cannot agree to such a situation on a long-term, regular basis.

EXHIBIT B



County of Onondaga
Department of Information Technology
KRONOS PROJECT

ROBERT E. ANTONACCI, II
County Comptroller

ANN D. ROONEY
County Administrator - Human Services

JEAN M. SMILEY
County Administrator - Physical Services

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KENNETH R. BEAM, JR.
Chief Information Officer

MAY 14, 2009

TO: Department Heads, Personnel Officers, and Payroll Clerks

FROM: Kronos Executive Oversight Committee

SUBJECT: Kronos Policies

The Kronos Executive Oversight Committee has reviewed the many comments and concerns that were identified by the various Kronos focus groups and has also sought comments and technical feedback from the Kronos Implementation Team. As a result of these reviews the Committee has developed some countywide policies that will be in effect for virtually all employees. In addition, we have developed priorities as to how the Kronos Implementation Team will proceed in addressing the concerns.

Countywide policies are as follows:

1. Kronos Workforce Central will be the method by which all employees' time is recorded and payment is made.

Everyone except elected officials will have their time accounted for by the Workforce Central system. Department heads and their true deputies are exempt from swiping. Everyone else, including all m/c employees and salaried employees will either swipe or use some other approved form of time entry. Requests for exception beyond the dept head and deputy will be reviewed and determined by the appropriate County Administrator.

2. Lunch times will be accounted for.

We continue to require the same accountability for lunch as with prior manual time recording in accordance with work rules that require punching in and out for lunch and personal business. Exemptions to lunch punching are limited to those 24/7 shift operations whose employees are paid for their lunch break and are not permitted to leave their facility. All other employees will swipe out and back in for lunch. Break configuration will be designed to accommodate departmental need.

3. There will be two basic options for configuring schedules and pay.

Those employees who are required to be at work for a specific set schedule will be set up with a pay rule based on that schedule. All others will be set up with an "Interval Rounding" pay rule that pays based on the employee working the appropriate hours each day/week. Supervisors will be expected to view their employees' time cards to assure compliance without the need to approve as many exceptions.

4. Early arrival or late departure (beyond any parameters that have been set in approved flex agreements) will not be compensated for without prior supervisory approval.

Employees who arrive at work and swipe in well before their scheduled start times are not authorized to be at work nor will they be paid until their scheduled shift begins. Likewise, staying late at the ends of workdays/shifts without supervisory approval is not authorized and such time will not be compensated.

EXHIBIT B - continued

5. Where ever possible, legal and contractual requirements regarding payment will be configured as automatic pay calculations to provide for uniform enforcement of policies and practices among departments.

6. Manual leave records will be eliminated for any function Kronos accommodates.

The official leave record for all employees is maintained in the Genesys payroll system. Kronos Workforce Central provides each employee's up to date leave balances at the clock eliminating any need for maintaining a duplicate paper record.

Modifications to any of these parameters will be determined by the Executive Oversight Committee.

Priorities

There is much work to be done in order to resolve the concerns that have been identified. The priorities for the Kronos Implementation Team will be as follows:

Work with those departments who are currently in parallel test mode to reconfigure pay rules in line with the policies above and expedite "going live."

Return to those departments who are already "live" to reconfigure as necessary.

Provide new and refresher training to payroll clerks and supervisors to enhance effective use of the Workforce Central System.

Establish protocol and schedule for clock replacement and alternatives

Upgrade Kronos to version 6.1 to allow further Kronos enhancements, such as enhanced scheduler.

Re-establish a time line for implementing Workforce Central in all remaining departments.

~~Transition from startup/implementation team to ongoing Oversight Committee.~~

Very truly yours,

Anne D. Rooney, County Administer, Human Services
Jean M. Smiley, County Administrator, Physical Services
Robert E. Antonacci II, County Comptroller
James J. Rowley, Chief Fiscal Officer
Kenneth R. Beam Jr., Chief Information Officer
Elaine L. Walter, Personnel Commissioner

SECTION V

Departmental Response



County of Onondaga

Personnel Department

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J. Ryan McMahon, II
County Executive

Carlton Hummel
Commissioner

November 10, 2025

Re: Audit of New York State Labor Law §162 & 2009 KRONOS Workforce Policies

Dear Mr. Masterpole,

This letter is in response to the findings and recommendations of the draft *Audit of New York State Labor Law §162 & 2009 KRONOS Workforce Policies* dated October 31, 2025 conducted by your office.

Below are the Personnel Department responses to each of the two recommendations (A and B) outlined in the audit.

Recommendation A

County Administration should review the existing County timekeeping policies from the 2009 KRONOS committee memo and Employee Handbook and then share, implement and enforce those policies. The County policies should work towards substantiating compliance with New York State Labor Law §162.

Response:

Onondaga County currently maintains policies and standard procedures governing the use of the KRONOS Workforce Management system (see manuals here: <http://in/pe/pepayrollforms.shtml>, Exhibit B of the draft audit document, various collective bargaining agreements). These procedures incorporate a level of flexibility essential to accommodate the varied and unique work schedules that exist across County departments. This flexibility is vital to ensuring that departments can efficiently and effectively deliver critical services to the residents of Onondaga County. Imposing rigid and restrictive time and attendance policies could negatively affect operations.

The Onondaga County Personnel Department is presently engaged in a comprehensive review and update of the *Employee Handbook for Onondaga County Employees*. As part of this initiative, the Department will review the Handbook's timekeeping policies contained within the Handbook to verify compliance with §162. Additionally, the 2009 KRONOS Committee memo will be reexamined and revised, as appropriate, to ensure continued adherence to the requirements of New York State Labor Law §162.

Recommendation B.

County Administration should consider mandating automatic punches to record a meal break for certain unique work situations in which traditional methods for an employee to document their time worked are not available to them.

Response:

While the use of automatic punches for lunch periods would fulfill the County's requirement to document lunch breaks (Exhibit B), such records do not, in themselves, substantiate that the meal period was actually provided or taken. Accordingly, it is our position that emphasis should be placed on departmental education and training. This will include ensuring that administrators, supervisors and payroll personnel are fully apprised of the requirements of §162, relevant County policies, and the proper use of automatic lunch punches. This office will undertake the necessary steps to provide such guidance and training.

On behalf of the Personnel Department, I would like to thank your office for the opportunity to respond to the recommendations contained within the Audit of New York State Labor Law §162.

Sincerely,



Anne Marie Donohue, Deputy Commissioner
Onondaga County Personnel Department