



Can You Force Employees To Work Weekend Overtime?

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Overtime. Some employees hate it, others can't get enough. And many companies struggle to manage it. It can be even more complicated in a unionized setting, as the applicable labor agreement undoubtedly touches on – if not exhaustively addresses – overtime. Good news for employers: the National Labor Relations Board (NLRB) just issued an [advice memo](#) that shows companies with unions may have increased flexibility on this front.

The advice memo addresses a case in which an employer implemented a mandatory Saturday overtime policy for its union employees. The collective bargaining agreement addressed overtime but was vague as to whether weekend overtime could be forced by the company. Historically, the company had a general practice of soliciting volunteers for weekend overtime, but it had, on occasion, forced it. During the most recent contract negotiations, the parties each proposed language on mandatory weekend overtime – the union proposing it couldn't be done and the company proposing it could – but neither side agreed to changes to the existing, ambiguous language.

Once the new contract went into effect, the company had a maintenance project requiring weekend overtime work. The employer then instituted a mandatory Saturday overtime policy for its maintenance employees. The union objected and filed charges with the NLRB alleging the company was not privileged to implement the new policy. In determining whether dismissal

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of the union's charges was warranted, the NLRB general counsel's office cited the new [contract "waiver" standard](#) from the Board and held that the existing language on overtime in the labor agreement was sufficient to privilege the company to require weekend overtime. In other words, the arguably vague language permitted the company's actions notwithstanding its mixed past practice.

Whether it be overtime or another hot button workplace issue covered by a collective bargaining agreement, the new waiver standard from the NLRB, as illustrated by this case, appears to be offering unionized employers more flexibility when it comes to managing their workforces.