

Essential Services FAQ

What is the background on Essential Services?

On July 1, 1994, Senate Bill 94 became effective. This Bill directed the State of Colorado to adopt procedures to count paid leave (holidays, sick leave, annual leave, etc.) as working time in determining overtime work for classified staff employees required to perform essential services. These changes were incorporated into *Colorado Statute* under C.R.S. 24-50-104.5(1) and in *Colorado Personnel Rules and Administrative Procedures* under rule 3-37.

What does Essential Services mean?

Information defining Essential Services is currently found in *Colorado Statute*, *Colorado Personnel Rules and Administrative Procedures*, *Colorado Department of Personnel and Administration (DPA) Technical Assistance*, and *Boulder Campus Closing Procedures During Emergencies*. Specific definitions from each of these resources is as follows:

Colorado Statute C.R.S. 24-50-104.5(1):

The state personnel director shall establish the general criteria and processes necessary for the state personnel system to fully comply with all applicable federal employment laws. Holidays and periods of authorized paid leave falling within a regularly scheduled workweek shall be counted as work time in determining overtime for employees performing essential law enforcement, highway maintenance, and other support services directly necessary for the health, safety, and welfare of patients, residents, and inmates of state institutions or state facilities.

Colorado Personnel Rules and Administrative Procedures (3-37):

Essential, non-exempt positions, as designated by a department head, shall have paid leave counted as work time. Essential positions perform law enforcement, highway maintenance, and support services directly responsible for the health, safety, and welfare of patients, residents, students, and inmates.

DPA Technical Assistance – FLSA (pages 11 and 20):

P.11 - Paid leave (e.g., holidays, annual leave, sick leave) is not required to be counted when calculating overtime, except for essential positions per state statute. Under Rule 3-37, ‘Essential, non-exempt positions, as designated by a department head, shall have paid leave counted as work time.’ Per statute, these employees perform “...essential law enforcement, highway maintenance, and other support services directly necessary for the health, safety, and welfare of patients, residents, and inmates...” (24-50-104.5(1), C.R.S.). For example, positions required to be on duty to perform emergency services without delay or interruption may be designated as essential. Calculation of overtime hours and compensation for essential employees may be complicated depending on the types of leave involved...Total hours for overtime purposes for essential employees include all paid time (e.g., work hours, holidays, paid leave), excluding compensatory time and unpaid leave. Compensatory time is not paid leave and has already been counted for overtime purposes; consequently, it is not included in the overtime work hours count.

P.20 - Essential employees are those employees who perform law enforcement, highway maintenance, and support services directly responsible for the health, safety, and welfare of patients, residents, students, and inmates (24-50-104.5, C.R.S.). Department heads are responsible for designating whether or not an employee is essential. Remember, paid leaves of absence *must be included* for overtime work hours for essential employees.

Boulder Campus Definition:

“Essential services” are those required to maintain or protect the health, safety or physical well-being of campus personnel (students, staff, and faculty) and facilities (including research projects), given the conditions of the emergency at hand.

Essential Services FAQ

How are Essential Services designations made at UCB?

The department Appointing Authority will determine which positions in their respective areas should be designated as essential services and under what conditions specific individuals will be required to work because of the need for an essential service. The determination of essential services and personnel may vary depending on the essential and/or emergency need.

How is the Essential Services designation documented?

The essential services designation is noted on the Position Description Questionnaire (PDQ) for classified positions and may also be tracked using the Essential Services checkbox in Position Data in PeopleSoft HRMS. Lists of designated essential services and personnel should be disseminated to the appropriate unit supervisor; individuals included on such lists should be notified by their supervisors. Employees should contact their supervisors if they have questions about whether or not they are considered "essential services" personnel. Any essential services criteria should be included in the job posting as part of the recruitment process when filling positions.

What are the performance expectations surrounding an Essential Services designation?

Employees designated as having essential services functions may have additional job expectations tied to this designation which supports the additional overtime pay they receive for performing in an essential services capacity. These performance expectations should be reasonable and should be communicated clearly to the employee by the employee's supervisor, in the employee's performance plan, and/or by individual departmental policy. Departments with essential services personnel should clarify expectations on when to report to work, when not to report to work, length of time to respond in an essential services situation, and number and type of appropriate excused absences from essential duty. Essential services personnel who consistently do not meet communicated expectations for this designation may be subject to disciplinary action or loss of essential services status.

Where I can find the resources outlined in this FAQ?

- *DPA Technical Assistance:* <http://www.colorado.gov/dpa/dhr/comp/docs/flsa.pdf>
- *UCB HR FLSA resources:* <http://www.colorado.edu/HumRes/pay/FLSA.html>
- *Boulder Campus Closing Procedures During Emergencies:* <http://www.colorado.edu/humres/policies/index.html>.

Who do I contact for additional questions?

For additional questions, contact Employment Services at 303-492-6475.