



## Meal Periods and Rest Breaks

### FREQUENTLY ASKED QUESTIONS FOR SUPERVISORS AND STAFF

#### **1. Are meal periods required under Cornell policy?**

New York State Law sets forth required meal periods for employees in New York State. Cornell Policy 6.7.10, Meal Periods and Rest Breaks, reflects those requirements. The requirement to provide an unpaid meal period is based on the particular shift that an employee works. Meal periods are not counted as hours worked, thus they are unpaid. Supervisors should ensure their employees are aware of the policy and the meal period requirements that pertain to their particular shifts/schedules. Staff and supervisors should consult the policy to determine whether a meal period is required.

For example:

1. If a nonexempt employee works a shift of more than six hours that includes the period of 11 a.m. to 2 p.m., the employer must provide (and the employee must take) an uninterrupted meal period of at least 30 minutes between 11 a.m. and 2 p.m. Such meal period must be taken and completed within the 11 a.m. to 2 p.m. timeframe.
2. If a nonexempt employee works a shift which begins before 11:00 am and continues later than 7:00 pm, the employee must take and complete an additional meal period of at least 20 minutes between 5:00 pm and 7:00 pm.
3. If a nonexempt employee works a shift of more than six hours which begins between 1:00 pm and 6:00 am, the employee must take a meal period of at least 30 minutes at a time approximately mid-way between the beginning and end of the shift.
4. If a particular work schedule is not covered in the above examples, then whenever an employee works more than 6 hours, a minimum 30 minute meal period must be taken approximately mid-way between the beginning and end of the shift.

Note: Employees who work a shift which covers the conditions expressed in both #1 and #3 above are only required to take one meal period of at least 30 minutes approximately mid-way between the start and end of that shift.

#### **2. Are temporary and casual employees covered by meal period requirements?**

Yes. Regular, temporary and casual employees are covered under New York State's meal period requirements and should be provided meal periods as described in Policy 6.7.10.

#### **3. Must meal periods be reflected in the time and attendance system for nonexempt employees?**

Yes. The time and attendance system must always reflect accurate time records for all hours worked, hours paid, and hours unpaid. Hence, unpaid meal periods must be accurately reflected in the time and attendance system. All non-exempt employees are responsible for accurately recording their time in the time and attendance system and supervisors are responsible for reviewing and approving such time. Please see question #4 below regarding the auto-deduct meal feature and the requirements for its use.

#### **4. What if an employee's department uses the meal auto deduct feature? Are there any special considerations for employees or supervisors with respect to meal periods?**

In some cases, the auto-deduct meal period feature in the time and attendance system has been approved and is in use for employees based on particular business needs of a workgroup. The length of the auto deduct meal period (e.g. 30 minutes) is pre-programmed into the time and attendance system and the employee is expected to take the full length of the meal period at a time which is compliant with policy and law based on their particular schedule. If a meal break taken is more than, or less than, the pre-programmed auto deduct, the supervisor must override the auto deduct to reflect the correct amount of time taken. The use of auto-deduct requires greater vigilance on the part of the supervisor and the employee to ensure that the meal periods are being taken compliantly. Supervisors should regularly check with their employees to reinforce the importance of taking their entire meal break accurately and in accordance with their specific auto-deduct feature. In general, if an employee believes that any of their job requirements conflict with their ability to take their meal period in accordance with the auto-deduct, they must make this known to the supervisor in a timely fashion so compliance can be achieved.

#### **5. If an employee requests to skip a meal period, can the supervisor agree?**

No, except on rare occasion. The foundation for the NYS Law on required meal periods is rooted in the health and well-being of employees and the overall safety of the workplace. Meal periods must be taken and may not be waived by employees. On rare occasion, if an exception is made, the supervisor must document the reason by entering a comment in the time and attendance system.

#### **6. What if an employee works through a shift and misses the entire meal period?**

Policy and law require the provision of meal periods which must be taken by employees and cannot be waived. Working through an entire shift without taking a meal period is a violation of law and policy. It should not occur but in the event it happens, the employee must properly record the entire shift as hours worked in the time and attendance system and the supervisor must document the reason for the missed meal period by entering a comment in the time and attendance system.

#### **7. What if an employee returns to work early and doesn't take the complete meal period?**

Policy and law require the provision of meal periods which must be uninterrupted and taken in their entirety by employees. Employees cannot waive the meal period requirements. If, on rare occasion, an employee chooses to return to work early from a meal period, the time and attendance system must accurately reflect hours worked starting from when the employee actually returns to work. Additionally, the supervisor must document the reason for the early return from the meal period by entering a comment in the time and attendance system. Supervisors should explain to employees the meal period requirements that pertain to their particular shifts/schedules. This includes educating employees that meal periods are not optional, that they must be taken in full, and must not be interrupted by job duties. Employees are responsible for adhering to meal period requirements. If an employee believes that any of their job requirements conflict with their ability to take a full, uninterrupted meal period at the appropriate time, this should be made known to the supervisor in a timely fashion so compliance can be achieved.

#### **8. If an employee requests to switch or "flex" meal periods in order to leave work early or come in late, can the supervisor agree?**

No, except on rare occasion. Meal periods must be taken at the time prescribed in policy. On rare occasion, if an exception is made, the supervisor must document the reason in the time and attendance system. It is recommended that the supervisor and employee discuss the use of flexible scheduling as an approach which would not impact compliance with the meal period. See Policy 6.6.13, Flexibility in the Workplace, at [https://www.dfa.cornell.edu/sites/default/files/policy/vol6\\_6\\_13\\_0.pdf](https://www.dfa.cornell.edu/sites/default/files/policy/vol6_6_13_0.pdf)

### **9. What if an employee takes the meal period at the wrong time?**

On rare occasion, an employee may take their unpaid meal period outside of the timeframe designated in policy. This should accurately be recorded in the time and attendance system as an unpaid meal period and the supervisor must explain the reason for the untimely meal period through documentation in the time and attendance system. Additionally, the supervisor should remind the employee of the importance of taking their meal periods in accordance with the prescribed timeframes in the future.

### **10. Many employees remain at their work locations when taking their meal periods. Is this allowed?**

Yes, if remaining at the work location does not interfere with the business needs of the unit. However, employees who remain at their work locations must be completely relieved from their job duties or they will not be considered to be on an unpaid meal period. If an employee performs any duties, even though not required to by the supervisor, the meal period will not be considered uninterrupted and the entire meal period will be considered hours worked. Supervisors should have an awareness of this and should periodically observe employees who choose to remain at their work locations to make sure the environment is such that it provides opportunity for the employee to take an uninterrupted meal period.

### **11. What if a supervisor schedules employees for a “working lunch?” How does that impact the meal period?**

If employees are required to attend a “working lunch,” such time is considered “hours worked” and must be recorded as such in the time and attendance system. The employees must also be given an unpaid, uninterrupted meal period if required under policy by virtue of their schedules.

Employees who are not required but who voluntarily choose to attend a “working lunch,” or “brown bag” seminar during the typical lunch timeframe are receiving a meal period under policy as they are free to leave and engage in other pursuits. Such time would be recorded as an unpaid meal period in the time and attendance system.

### **12. Are employees covered by a collective bargaining agreement covered by meal period requirements?**

Yes. Please consult the applicable collective bargaining agreement for language pertaining to meal periods. The agreements can be found at <https://www.hr.cornell.edu/policies/contracts/>. The college/unit Human Resources representative can answer specific questions that may arise about contract language on this topic. A list of HR reps can be found at <https://hr.cornell.edu/find-your-hr-representative>. If additional guidance is needed, a member of Workforce Policy and Labor Relations in the Division of Human Resources can provide assistance at 607-255-4652.

### **13. Are hourly student employees covered by meal period requirements?**

Yes. Hourly student employees are covered under New York State’s meal period requirements and should be provided meal periods as described in the Student Employment policy page at <http://studentemployment.cornell.edu/policies>.

### **14. Some employees take a meal period that is longer than the minimum required. Is this allowed?**

Yes, with supervisory approval. Employees and supervisors must adhere to the minimum meal period requirements, but it is allowable to exceed the minimum requirements as long as the employee’s schedule meets business needs and is approved by the supervisor. The entire time taken for the meal period would be unpaid.

**15. Some employees work a shift which triggers the requirement for both a 30 minute meal period between 11 am – 2 pm and a 20 minute meal period between 5 pm – 7 pm. In this situation, is it acceptable for the employee to switch the two meal periods and take a 20 minute meal period between 11 am – 2 pm and a 30 minute meal period between 5 pm – 7 pm?**

It is not compliant with NYS Law or University policy for the employee to take only 20 minutes for the meal period between 11 am – 2 pm. A full 30 minutes must be taken and completed within the 11 am -2 pm timeframe. However, it is compliant for the employee to take 30 minutes between 5 pm – 7 pm because that exceeds the minimum requirement of 20 minutes. With supervisory approval, employees may take meal periods that are longer than the minimum requirements.

**16. If an employee works an elongated shift and must take a required meal period mid-way between the beginning and end of the shift, must the meal period be exactly mid-way into the shift?**

No. Policy 6.7.10 indicates the meal period must be taken approximately mid-way in the shift. It is recommended that plus or minus 1-hour be used as a framework. In other words, if the mid-point of the shift is at 9:00 pm, the meal period should be taken between 8:00- 10:00 pm.

**17. If an employee works an elongated shift where one 30 minute meal period is required mid-way between the beginning and end of the shift, can the employee request and be provided an additional meal period during the shift?**

Yes. Units may permit an additional unpaid meal period (generally at least 20 minutes) even though it is not a policy or legal requirement. Additionally, paid rest breaks (generally less than 20 minutes) may also be provided at the discretion of the unit in concert with the guidelines outlined in policy. Any staff member (including those who work an elongated shift) who desires an additional meal period, or who would like to discuss the use of paid rest breaks, should discuss this with their supervisor who is expected to establish compliant meal periods and rest breaks which meet the needs of the operation of the unit and the work team. The University values the health and wellbeing of staff members, and the importance of having appropriate meal periods and rest breaks during the work shift, especially in cases of elongated shifts, is one way of supporting this. Staff members may also contact their college/unit Human Resources representative for advice and/or guidance about meal periods and rest breaks.

**18. Do meal periods differ from rest breaks?**

Yes. Cornell Policy 6.7.10 also addresses rest breaks. Rest breaks which are less than 20 minutes are considered hours worked and are provided at the discretion of each work unit which will establish its own practices with respect to such paid breaks. Paid breaks are not recorded in the time and attendance system as they are considered hours worked.

**19. Who should I contact if I have questions about meal periods or rest breaks?**

Employees should begin by asking their supervisors. If additional guidance is needed, or if the supervisor has additional questions, the payroll representative or local Human Resource representative for the particular college/unit can serve as a resource. A list of HR representatives can be found at <https://hr.cornell.edu/find-your-hr-representative>.