

# Members Only



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## State Holidays

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Ohio statutes designate ten days as legal holidays. This informational brief discusses these statutes and their effects on public employees, government, and business.

Legal Holidays Observed by the State	
Holiday	Date of Observance
New Year's Day	January 1
Martin Luther King Day	Third Monday in January
Washington-Lincoln Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veterans Day	November 11
Thanksgiving Day	Fourth Thursday in November
Christmas Day	December 25
<b>Plus</b> Any day appointed and recommended by the Governor or the President of the United States as a holiday <sup>1</sup>	

*Ten legal holidays are observed by the state of Ohio.*

### State employees

#### General rule

An employee whose compensation is paid in whole or part by the state is paid for the ten legal holidays observed by the state and cannot be required to work on those days unless, in the opinion of the responsible administrative authority, failure to work on those days would impair the public service. If a holiday falls on a Saturday, the preceding Friday is observed as the holiday; if any falls on a Sunday, the following Monday is observed.<sup>2</sup>

*If a legal holiday falls on a Saturday, state employees observe it on the preceding Friday. If it falls on a Sunday, state employees observe it on the following Monday.*



State employees are paid for the ten holidays.

### Special rules

An employee whose work schedule is other than Monday through Friday is entitled to holiday pay for holidays observed on the employee's day off regardless of the day of the week on which they are observed. A *full-time* permanent employee is entitled to a minimum of eight hours of pay for each holiday regardless of the employee's work shift and schedule. A *flexible-hours* employee who is normally scheduled to work more than eight hours on a holiday either (1) must receive additional holiday pay for the normally scheduled hours of work or (2) must be required to work an alternate schedule for that week; it may consist of five shifts of eight hours each during the week including the holiday, in which case the employee must receive eight hours of holiday pay for the day the holiday is observed. *Part-time* permanent employees must be paid four hours of holiday pay regardless of the employee's work shift and work schedule.

An employee who is paid directly by warrant of the Director of Budget and Management and is scheduled to work on New Year's Day, Memorial Day, July 4, Thanksgiving Day, or Christmas Day *but who does not report to work the day before, the day of, or the day after the holiday* due to personal illness or illness of an immediate family member does not receive holiday pay, unless the employee provides documentation of extenuating circumstances that prohibited reporting to work. If the

employee works a shift between the employee's scheduled shift and the holiday, the employee must be paid for the holiday. Further, only an employee who is in active pay status on the scheduled work day preceding a holiday receives holiday pay. (Active pay is a status in which the employee is being paid because the employee either is actually working or receiving some type of approved paid leave.)<sup>3</sup>

### Overtime eligibility caveats

When an employee who is *eligible for overtime pay* is required to work on a day observed as a holiday, the employee generally is entitled to be paid for the time worked at one and one-half times the employee's regular rate of pay in addition to the employee's regular pay. But, the employee can choose instead compensatory time off with pay in the same ratio.<sup>4</sup>

An appointing authority may adopt a policy allowing employees *ineligible for overtime pay* to work on a holiday and take time off later as compensatory time. Specifically, a state agency may award compensatory time or pay compensation to employees who are ineligible for overtime pay through a policy the agency establishes with the approval of the Director of Administrative Services. Employees are exempt from the payment of overtime compensation only under the criteria for exemption established in the federal Fair Labor Standards Act.<sup>5</sup>

Certain state employees who are required to work on a legal holiday receive premium pay or compensatory time off.



## Local government employees

### Counties and townships

Holiday pay generally is granted to county and township employees for the same holidays designated for state employees. Township employees are entitled to the holiday pay only if they are regular employees with at least six months of full-time township service before the month in which the holiday occurs. The Revised Code does not specify how county and township employees are to be compensated if they are required to work on a holiday.<sup>7</sup>

A 1982 opinion of the Attorney General advised that a township employee who is required to work on a holiday must be compensated for the hours actually worked at the employee's normal rate of pay in addition to receiving eight hours of holiday pay.<sup>8</sup> An earlier Attorney General opinion held that a board of township trustees may grant holiday pay exceeding the minimum set by statute.<sup>9</sup> Similarly, a 1999 opinion held that a county could grant its employees who are not in a collective bargaining unit holiday leave exceeding the statutory minimum.<sup>10</sup>

### School districts

A board of education may dismiss schools on the state holidays and on days approved by the board for teachers' attendance at educational meetings. Holiday pay is required by statute for seven of the ten state

holidays (all but Washington-Lincoln Day, Columbus Day, and Veterans Day) for *nonteaching* school district employees. A board of education may declare any other day to be a paid holiday for nonteaching school district employees except days approved for teachers' attendance at educational meetings. A nonteaching school district employee who is required to work on a holiday must be granted either (1) compensatory time off for which the employee must be paid at the employee's regular rate of pay or (2) a premium rate established by the board for work performed on the holiday.<sup>11</sup>

### Overtime

Although the federal Fair Labor Standards Act does not require that local government employees receive premium pay for working on a holiday, it does require that they receive premium pay or compensatory time off if, by working on a holiday, they work more than 40 hours in a workweek.<sup>12</sup>

### Other political subdivisions

The Revised Code requires paid holidays only for state, county, township, and school district employees. If the employees of other political subdivisions receive holiday pay, or employees of the state or a county, township, or school district receive holiday pay for days other than those listed in statute, this results from one of the following: an ordinance, charter, or policy adopted by a political

*County and township employees are entitled to holiday pay for the same legal holidays as state employees.*



State institutions of higher education may switch the day for the observance of three holidays that fall during the academic year.

If the last day on which an act required by law to be performed falls on a Sunday or legal holiday, the act may be done on the next day that is not a Sunday or legal holiday.

subdivision; a policy adopted by a state agency; or a collective bargaining agreement between a political subdivision or state agency and a labor organization.<sup>13</sup>

### **Colleges and universities**

The board of trustees of a community college, technical college, state community college, or four-year state university may establish a policy for its employees of observing Martin Luther King Day, Washington-Lincoln Day, or Columbus Day on other days. For example, the institution could require its employees to work on Columbus Day and designate the day after Thanksgiving or Christmas Eve as the day on which the Columbus Day holiday will be observed.<sup>6</sup>

### **Effect of legal holidays on deadlines for certain acts**

The *time within* which an act must, by law, be performed is computed by excluding the first and including the last day. But when the last day falls on a Sunday or legal holiday, the act may be performed on the next day that is not a Sunday or legal holiday. Similarly, when a public office in which an act required by law is to be performed is *closed to the public* for the entire day that constitutes the last day for performing the act, or is closed before its usual closing time on that day, the act may be performed on the next day that is not a Sunday or legal holiday.<sup>14</sup> Many statutes that require an act to be performed, or that prohibit an

act from being performed, within a specified number of days, exclude a legal holiday being counted among those days.

Every *Saturday afternoon* is statutorily declared to be a legal holiday, beginning at noon and ending at midnight, but no Revised Code section or court decision affects the validity of any check, bill of exchange, order, promissory note, due bill, mortgage, or other "writing obligatory" made, signed, negotiated, transferred, assigned, or paid during that period on a Saturday, or any other transaction during that time.<sup>15</sup> The Ohio Supreme Court has construed this provision to mean that an application for reconsideration of an unemployment compensation claim was properly filed within the ten-day limit when the tenth day for filing fell on a Saturday and the application was filed on the following Monday.<sup>16</sup>

Any *financial institution* doing business in Ohio may perform certain transactions outside of regular business hours on any day that is in whole or in part a holiday. These transactions are (1) paying, certifying, or accepting negotiable or nonnegotiable instruments, including a "demand instrument," dated on the holiday on which it is presented and (2) any other business that would be valid if done on a business day during regular banking hours. A financial institution that remains open for business on all or part of a holiday is not required to perform any act on that day in its capacity as a collection agent that would not be required if it were closed during that period.<sup>17</sup>




A bank may close on any day designated by proclamation of the President of the United States or the Governor as a day of mourning, rejoicing, or other special observance. In this situation, the bank is not required to comply with Revised Code provisions regarding the closing or reopening of banks or financial institutions.<sup>18</sup>

## Election day

The day of a general election, between noon and 5:30 p.m., is statutorily declared to be a legal holiday.<sup>19</sup> Ohio law does not grant public employees paid leave for these hours, although employees could receive paid leave if their employer

or a collective bargaining agreement grants it. The Attorney General has concluded that county employees are not required to be paid holiday pay for working these hours.<sup>20</sup> Ohio law does not require any public agency to close or grant paid leave to its employees on general election day afternoon.

## Voter rights on election day

Ohio's election law prohibits any employer from discharging or threatening to discharge an employee for taking a reasonable amount of time to vote on any election day, and from refusing to permit an employee to serve as an election official on any election day.<sup>21</sup> 

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*Each general election day afternoon technically is a legal holiday, but public agencies are not required to close or grant holiday pay on that afternoon.*

## Endnotes

- <sup>1</sup> R.C. 1.14 and 5.21.
- <sup>2</sup> R.C. 1.14, 5.21, 124.18(B), and 124.19(A).
- <sup>3</sup> R.C. 124.18(B).
- <sup>4</sup> R.C. 124.18(B).
- <sup>5</sup> R.C. 124.18(A).
- <sup>6</sup> R.C. 124.19(B).
- <sup>7</sup> R.C. 325.19(D) and 511.10
- <sup>8</sup> 1982 Op. Att'y Gen. No. 82-051.
- <sup>9</sup> 1981 Op. Att'y Gen. No. 81-061.
- <sup>10</sup> 1999 Op. Att'y Gen. No. 99-039.
- <sup>11</sup> R.C. 3313.63 and 3319.087.
- <sup>12</sup> 29 U.S.C. 207.
- <sup>13</sup> See, for example, R.C. 339.06 and 749.082.
- <sup>14</sup> R.C. 1.14.
- <sup>15</sup> R.C. 5.30.
- <sup>16</sup> *Van Meter v. Segal-Schadel Co.*, 5 Ohio St.2d 185 (1966).
- <sup>17</sup> R.C. 5.40.
- <sup>18</sup> R.C. 1103.21(B).
- <sup>19</sup> R.C. 5.20.
- <sup>20</sup> 1965 Op. Att'y Gen. No. 65-225.
- <sup>21</sup> R.C. 3599.06.

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