



**DEPARTMENT OF CORRECTIONS  
MONTANA STATE PRISON  
OPERATIONAL PROCEDURE**

Procedure:	<b>MSP 1.3.46 EMPLOYEE MEAL BREAKS</b>	
Effective Date:	March 31, 2007	Page 1 of 4 and no Attachments
Revision Date(s):	August 22, 2017, March 18, 2020, August 31, 2021	
Reference(s):	DOC Policy 1.3.46	
Signature:	/s/ Jim Salmonsens / Warden	
Signature:	/s/ Gayle Butler/ MCE Administrator	

**I. PURPOSE**

Montana State Prison (MSP), Montana Correctional Enterprises (MCE), and Riverside Special Needs Unit (RSNU) provides employees with meal and rest breaks in accordance with state policy and state and federal labor laws. Employee breaks will be based on facility staffing patterns, operational needs, and security requirements.

**II. DEFINITIONS**

None

**III. PROCEDURES**

**A. Eligibility**

1. All facility staff not covered by a collective bargaining agreement, will receive a 30-minute paid meal period during their scheduled shift regardless of their established work schedule., eight, ten, or twelve-hour shift, as long as they remain on-site at the facility.
2. Facility staff includes all staff that work at the MSP/MCE/RSNU regardless of the Department division they work under.
3. Exceptions to eligible staff are the Warden and MCE Administrator.

**B. Requirements and Restrictions**

1. The employee must remain onsite at the facility to be paid for the meal period. An employee who leaves the facility for training, meetings, or to conduct personal business is not eligible for the paid meal period and must take appropriate accrued leave or work additional time to offset the time they took for the personal business, meal, or other breaks. The following are examples:

**EXAMPLE:** *Your scheduled workday is from 8 a.m. to 4 p.m., and, while you generally stay at the facility during your workday, your work group goes to town for lunch. As you are not taking your meal at the facility, all the time away needs either to be made up by working longer or through the*

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*use of accrued leave. If you spend an hour in town for lunch, you will need to work one hour longer or use an hour of accrued leave (or some combination thereof).*

**EXAMPLE:** *Your scheduled workday is from 8 a.m. to 4 p.m., and, while you generally stay at the facility during your workday, you are attending an eight-hour training session at the DOC Training Center. As you are not on-site, and not taking your meal at the facility, whatever time you use for off-site meal or other breaks needs to be made up by working longer or through the use of accrued leave.*

**EXAMPLE:** *Your scheduled workday is from 8 a.m. to 4 p.m. and you have a meeting in Helena. You leave for the meeting in a state car at 8 a.m. There is an hour break taken for lunch during the meeting. You return home at 5 p.m. You are not on site at the facility therefore you will not be paid for the meal break. The total time you spend at the meeting and traveling to and from the meeting count toward time worked.*

2. While on a paid meal break, the employee must be available to respond to any incident in the facility and may be required to provide security or other duties.
3. If an employee is interrupted during their meal break to attend to facility business (emergent or non-emergent), they should take an alternate meal break for the time missed before the end of their regularly scheduled shift. If the employee doesn't take an alternate meal break before the end of their regularly scheduled shift, no matter what the reason, the employee can't request overtime for the missed meal break. The following is an example scenario:

**EXAMPLE:** *Your scheduled workday is from 8 a.m. to 4 p.m. You are in the middle of your meal break when the emergency siren goes off. You stop what you are doing and follow the emergency protocols. The emergency lasts until 2:00. Take your meal break between 2:00 and 4:00. If you don't take a meal break or the emergency lasts all day, and you don't get a meal break you can't put in for ½ hour of overtime for the missed meal break.*

4. Supervisors will schedule the meal break of each employee they supervise to ensure employee and facility needs are met. They will monitor their employee's time so as not to incur overtime due to meal breaks. However, the employee needs to take personal responsibility to take their meal break and work the appropriate hours. This includes the following example:

**EXAMPLE:** *Your scheduled workday is from 8 a.m. to 4 p.m. and today is the last day of your work week. You stay at your desk the whole day and do not take a meal break. You can't take a meal break from 4 to 4:30 and put in for ½ hour of overtime. Your supervisor will not approve overtime for this meal break.*

5. Employees who wish to extend their on-site meal break period may do so under the following conditions:
  - a. the alternative meal break may only be extended up to one hour.
  - b. the employee must receive prior approval from their immediate supervisor.

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- c. the employee must stay on-site during the extended period; and
- d. the employee must either take the appropriate accrued leave or work additional time to offset the additional time they take.

**EXAMPLE:** *Your scheduled workday is from 8 a.m. to 4 p.m. You go to an on-site gym from 11:00 a.m. to 11:30 a.m. and then eat lunch on-site from 11:30 a.m. to 12:00 p.m. You would need to work an additional ½ hour or use accrued leave to cover the additional ½ hour.*

6. Supervisors will ensure that the workday hours of the staff they supervise are scheduled according to the services provided by each position and meet the needs of the facility, other staff, and inmates. Performance of job duties and facility needs will take precedence over the personal needs or wishes of the employee.
7. Staff are encouraged, but not required, to take their meal break in a designated facility meal or break area. This includes the following:
  - a. if a staff member takes their meal in a dining hall, they must do so during a scheduled mealtime and not take the meal out of the hall; and
  - b. if a staff member takes their meal break in another location, the location selected should not cause interference with other staff in completing their duties in an efficient, professional, and orderly manner.

**EXAMPLE:** *You decide to eat the facility provided lunch meal in the low side dining hall. You must take it sometime between 1015hrs and 1200hrs and eat it in the dining hall. You aren't allowed to fill a tray and take it to your office or work area to eat.*

**EXAMPLE:** *You go to an unoccupied conference room to eat your meal. People start coming in for a meeting. You need to immediately leave and finish the break somewhere else. In the future check with the person who schedules the room before you take your meal break there.*

**EXAMPLE:** *If one of your close friends is busy working, don't bring your lunch to their worksite and just start eating. You need to find a place where you aren't disrupting anyone trying to get their work done.*

8. The following requirements apply to rest/coffee breaks:
  - a. employees are allowed one fifteen-minute break per four hours worked when the break does not interfere with the accomplishment of assigned duties. When an eight-hour shift is completed, one break may be taken during the first half of the work period, and one break may be taken during the second half of the work period.
  - b. employees are not entitled to two fifteen minute "rest/coffee breaks" each shift but will be allowed to periodically interrupt their regular duties for restroom breaks or other personal needs.
  - c. employees are not entitled to additional compensation or time off for missed breaks.
  - d. breaks do not accumulate, may not extend meal breaks, nor be used to start late or leave early.
  - e. supervisors will monitor and review employee breaks.

**IV. CLOSING**

Provisions of this procedure not required by statute will be followed unless the provisions conflict with Collective Bargaining Agreements, which will take precedence to the extent possible.

Questions concerning this procedure should be directed to the MSP Human Resource office staff.

**V. REFERENCES**

*DOC Policy 1.3.46*  
*24.16.1006, ARM*

**VI. ATTACHMENTS**

None