

SB 1334 – MEAL & REST PERIODS FOR HEALTHCARE EMPLOYEES FREQUENTLY ASKED QUESTIONS

Issued 12/15/2022

Revised 12/29/22

1. What is SB 1334?

SB 1334 is a new CA law that requires UC to provide meal and rest period to non-exempt employees who provide or support direct patient care in acute hospitals, clinics, or public health settings.

2. Does SB 1334 apply to exempt employees?

No. SB 1334 applies only to non-exempt employees.

3. When does SB 1334 go into effect?

SB 1334 goes into effect on January 1, 2023.

4. Hasn't UC always been required to provide meal and rest periods?

Yes, in accordance with UC policy and collective bargaining agreements. However, SB 1334 dictates how meal and rest periods will be provided, and how employees must be paid a penalty if such meal and rest periods are not provided.

5. How many and how long are the required meal breaks under SB 1334?

SB 1334 requires that an employee receive one 30-minute unpaid meal period for shifts of five and up to ten hours. It also requires that an employee receive two 30-minute unpaid meal periods for any shift of greater than ten hours.

6. How long are the required rest periods under SB 1334?

SB 1334 requires that an employee receive a 10-minute rest period for every four hours of work. However, since the majority of UC's collective bargaining agreements provide employees with a 15-minute rest period, UC Irvine will allow employees to continue to take a 15-minute rest period for every four hours of work.

7. How do I code API if I have an approved missed meal period?

Employees who miss a meal period must enter a NL special code with their out clocking (the punch at the end of the day). This will ensure that the employee is paid for 30 minutes / 60 minutes (dependent upon waiver) to compensate for the missed meal period(s).

8. Will my schedule be adjusted as a result of SB 1334?

Possibly. If you are currently scheduled to work a 12.5-hour shift, your schedule will be lengthened to 13 hours, unless you waive one of your meal periods in writing. Without a waiver, the 13-hour shift will allow employees to receive two unpaid 30-

minute meal periods and still be paid for 12 hours of work.

9. I am a 12-hour employee and do not want to waive one of my meal periods. Can I be scheduled for 12.5 hours and only be paid for 11.5 hours of work?

No. 12-hour employees who do not waive one of their meal periods will be scheduled to work 13 hours.

10. Can I work through my meal or rest periods?

No. Employees are expected to take their meal and rest periods. Meal periods must be uninterrupted, and the employee must be free of all work-related responsibilities.

11. Can I waive my rest period?

No, rest periods cannot be waived. UC is required to provide employees with rest periods. However, if an employee is provided with a rest period and the employee elects not to take the rest period, the penalty payment will not be paid.

12. Does SB 1334 dictate when I must take my meal period?

UC has interpreted SB 1334 to require that all employees start their meal period no later than the beginning of the 5th hour of work. As an example, an employee who begins work at 8:00 a.m. must begin their meal period no later than 1:00 p.m.

13. Am I entitled to penalty pay if UC provides me with a timely meal period, but I choose to take a later meal period?

No. UC is only obligated to pay a penalty when it fails to provide the employee with a timely meal period. If the employee independently determines they want to defer their meal period and take the meal period after the beginning of the 5th hour of work, no penalty is owed to the employee. An employee who defers their meal period beyond the beginning of the 5th hour of work must sign the "Missed Meal and Rest Period Log" confirming that they have independently determined to defer their meal period and acknowledge that they are not eligible for a missed meal penalty.

14. Am I entitled to penalty pay if UC provides me with a timely rest period, but I choose to take a later rest period?

No. UC is only obligated to pay a penalty when it fails to provide the employee with a timely rest period. If the employee independently determines they want to take a later rest period, no penalty is owed to the employee.

15. How do I notify management that I have not received a meal or rest period?

Employees are obligated to notify a supervisor/manager before missing a meal and rest period, if possible. The supervisor/manager must be permitted to adjust operations to provide the meal and rest period and avoid penalty pay. If it is not possible to notify a supervisor/manager in advance, the employee must notify the supervisor/manager as soon as possible, and no later than the end of the shift.

16. How will I document that I missed a meal or rest period?

Employees are required to document all missed meal and rest periods on UC Irvine's "Missed Meal and Rest Period Log." The log must be completed prior to the end of the shift on which the missed meal or rest period occurred. Specific details about why the meal or rest period could not be taken must be documented on the log, and the employee and the supervisor must sign the log concurring that the meal or rest period could not be taken.

17. What is the penalty payment for a missed meal period?

The penalty pay is 1-hour of pay at the employee's regular, straight time hourly rate. The penalty payment is not counted as time worked for overtime purposes.

18. What is the penalty payment for a missed rest period?

The penalty pay is 1-hour of pay at the employee's regular, straight time hourly rate. The penalty payment is not counted as time worked for overtime purposes.

19. What if I miss more than one rest period in a workday – do I get two penalty payments?

No. An employee is only entitled to one missed rest period penalty per workday, regardless of how many rest periods are actually missed.

20. What if I am entitled to two meal periods and I miss them both – do I get two penalty payments?

No. An employee is only entitled to one missed meal period penalty per workday, regardless of how many meal periods are actually missed.

21. How do I complete a waiver so that I am not required to take two unpaid meal periods if I work greater than 10 hours, or one unpaid meal period if I work 6 hours or less?

Employees desiring to waive meal periods must complete a "UCI Health Meal Period Waiver." A copy of this Waiver was sent to every employee's UC email address in mid-December 2022. If you need an additional copy, please click here: [Meal Waiver Form](#). If you need further assistance, please contact the Employee Experience Center at eec@uci.edu.

22. If I sign the Meal Period Waiver, can I revoke it in the future?

Yes. An employee may revoke their waiver by submitting a written request to the HR department and/or their supervisor/manager. Once the waiver is revoked, the employee's assigned work schedule may be subject to modification (i.e., moving to a 13-hour shift to accommodate 2 unpaid 30-minute meal periods).

23. If I work more than 12 hours, can I waive my 2nd meal period?

No. Once an employee has worked greater than 12 hours, they must be provided with a 2nd meal period, even if they have signed the Meal Period Waiver.

24. How will I know that I have been appropriately paid the penalty for a missed meal or rest period?

Payroll has created a unique code, MBP, for penalty pay. This code, along with the number of hours paid, will be reflected on an employee's paycheck. It is the employee's responsibility to ensure that they are paid appropriately each pay period for missed meal and rest periods and to report any missing penalty payments to

Human Resources or their supervisor/manager no later than 30 days after the paycheck on which the penalty payment was to be paid was issued.

25. What happens if an employee does not comply with UCI Health's standard operating procedures for meal and rest periods by not taking their assigned meal and rest periods, despite management making it available to them in accordance with SB 1334, and claiming missed meal and rest period penalties?

An employee who fails to comply with UCI Health's standard operating procedures and does not seek authorization or inform their supervisor/manager that they missed their scheduled meal and rest period, may be subject to disciplinary action, up to and including termination.

26. Since SB 1334 requires UC to pay penalties for missed meal periods, will I be required to badge out when I leave for lunch and badge in when I return to work?

Yes. Beginning January 1, 2023, all non-exempt employees must badge out when they leave for lunch and badge back in when they return from lunch. The period of time the employee must remain off the clock is minimally 27 minutes. Additionally, badging back in to work past the 30-minute meal period may result in a deduction of pay from the employee's regular pay.

27. Are travelers and contract workers assigned to work at UC covered by SB 1334?

No.