

SPREAD OF HOURS



For each workday that a shift or shifts go over 10 hours, the employer must pay an “extra” hour of pay also known as the spread of hours pay. The spread of hours pay is equal to one (1) hour of pay at the minimum wage, regardless of the employee’s regular rate of pay.

THE “SPREAD OF HOUR” RATE = MINIMUM WAGE

As of December 31, 2023

\$15.00* Upstate New York	\$16.00* Long Island & Westchester
\$16.00* NYC 10 or less Employees	\$16.00* NYC 11 or more Employees

CAN I APPLY THE TIP CREDIT TO THE SPREAD OF HOURS PAYMENT?

- ☐ **YES** No credits (e.g. meal, tip) may be taken against the spread of hour payment.
- ☒ **NO**

WHICH EMPLOYEES ARE COVERED?

ALL EMPLOYEES EXCEPT EXEMPT, SALARIED EMPLOYEES

In the hospitality industry, spread of hours applies to everyone evenly. So regardless of an employee’s pay rate, they receive a spread of hours pay rate equal to the minimum wage.

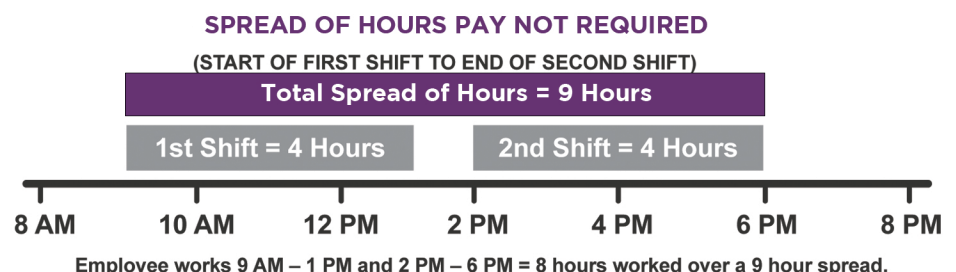
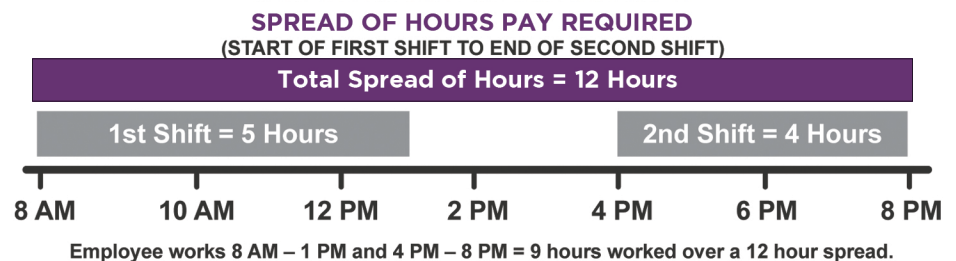
DOES SPREAD OF HOURS PAY IMPACT OVERTIME?

- ☐ **YES**
- ☒ **NO** You do not have to include spread of hours pay in your overtime calculations as the spread of hours payment is not considered work performed by the employee for overtime purposes.

HOW DO YOU CALCULATE THE SPREAD OF HOURS?

The “spread” for the calculation includes all time working and time off for meals and any off-duty time during or between shifts.

An employee will be owed a spread of hours payment if the start of the first shift and end of the second shift is 10 hours or more, even if the employee is not working for 10 hours.



*Fast food employees may be subject to higher rates.

If you have any compliance or advocacy questions, please contact us at advocate@nysra.org or 800.452.5212

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