

**Challenge Compliance Plan**  
**Compliance Risk: Fair Labor Standards Act (DOL Enforcement)**  
**Area of Concern: Dishroom Day Rates**

We do not use Piecerates for payment of consumers in the Dishrooms. There are several reasons for this. Many aspects of the job are not quantifiable, such as prep and clean-up. There are frequent periods of inactivity when workers wait for work, followed by periods of intense activity. People work side by side and it is not always possible to determine who produces how much work. Also, when the workers are working at full speed, it is not possible to keep an accurate count of the various dishes, glasses, and silverware as they are being cleaned.

In the Dishrooms we pay consumers at hourly Day Rates. The Day Rate for each individual is calculated by multiplying the prevailing rate for dishroom workers times the individual's measured productivity. The entire job is broken into separate tasks which the workers participate in. The individual's production is counted while working at each of these tasks for a timed period, and the production is compared to average production for a non-disabled individual for this same period of time. This produces the relative productivity of the consumer, as a percentage, for each specific task.

Each task is weighted by the amount of time the consumer will spend on that task. For example, if a consumer is 50% productive at a task that will take 40% of her time, 50% is multiplied by 40%, which equals 20%. If she is 100% productive at the tasks taking the other 60% of her time, 100% is multiplied by 60%, which equals 60%. 20% plus 60% equals 80%, which is her Total Productivity for the job. Her Day Rate will equal 80% times the prevailing rate.

Not all tasks encountered in the dishrooms are quantifiable. If the task is not quantifiable, the consumer is given credit for being 100% productive on that task.

Not every consumer is able to complete all tasks. If the consumer is not able to perform a task, that task is not weighed into the consumer's productivity rating.

A Day Rate evaluation will be given with the following standards in mind: Time-based measurements will not be conducted before the consumer has time to become familiar with the job. Evaluations will not be done when a consumer is fatigued or subject to conditions that will result in less than normal productivity. If it is at all possible, the consumer will be timed on three different occasions and the results averaged. At every intermediate step when calculating the consumer's productivity and Day Rate, resulting figures will be rounded in the direction that results in the higher rate to the consumer.

ETS consumers are paid a Commensurate Wage, that is, the prevailing wage times their productivity rating. If a consumer is paid at least minimum wage, currently \$6.00 per hour, Challenge has met its legal obligation to pay the consumer appropriately under the Fair Labor Standards Act. We are not required to calculate a Day Rate for any consumer earning \$6.00 per hour. If we discover that for any reason we have not paid an individual at a Commensurate Wage, we may meet our obligation by increasing that person's wage to \$6.00 per hour.

When a consumer first starts working at the Dishrooms, he will probably already have been working in the Work Center and have an average hourly rate. This average rate is *not* the appropriate rate to pay him for working in the dishrooms. However, he may be paid at this rate until his Dishroom Day Rate is calculated. If he does not have an average hourly rate, a reasonable estimate may be used to pay him until the Dishroom Day Rate is calculated. After the Day Rate is calculated, we must make a retroactive adjustment to bring the amount paid up to the Day Rate. If the consumer has been paid at an estimated rate which turns out to be higher than the Day Rate, we may waive recouping any overpayment from the consumer. **Kevin Gates** will

compare the Day Rate with the amount already paid and arrange to pay the retroactive adjustment to the consumer.

Each new consumer should be evaluated for a Day Rate within a month after starting work in the Dishrooms. **Larry Workman** will arrange for the Day Rate evaluation. **Kevin Gates** will review a report of all consumers working in the Dishrooms on a monthly basis, and will send a reminder to **Larry Workman** if a consumer has not yet been evaluated.

No consumer should work for more than six months at a Day Rate without being evaluated. New evaluations will be held each February and September, at the beginning of each new semester. **Larry Workman** will be responsible for making sure that these evaluations are performed. He will send the new Day Rates to **Kevin Gates**, who will record that they have been done and enter the new rates into the payroll system.

If a new Day Rate evaluation is not completed in time to pay the consumer at the new rate from the beginning of the new semester, **Kevin Gates** will calculate a retroactive adjustment and arrange payment to each affected consumer. If the consumer has been paid at an old Day Rate which turns out to be higher than the new Day Rate, we may waive recouping any overpayment from the consumer.

New time studies were performed, using three non-disabled individuals, at each Dishroom in January 2004. These time studies were used to establish the average production of a non-disabled worker. These figures should not change as long as the machines and layout of the dishrooms remain the same. However, to provide reassurance that the figures are correct, at least once per year one non-disabled individual will be timed in each of the dishrooms. If the production of the non-disabled individual is within 10% of the existing standards, the results should be noted, but the standards will not change. If the production of the non-disabled worker is more than 10% greater than the existing standard, we will discuss the findings and decide whether to perform a new time study. In this case, a new time study may tend to reduce the amount that is paid to consumers. If the production of the non-disabled worker is more than 10% less than the existing standard, we will time another non-disabled individual to see whether the results will be the same with the second person. (There is a wide range of productivity even among non-disabled individuals, and one person could easily invalidate our averages if we don't test a second person.) If the productivity of the second person is also more than 10% less than the existing standard, we must perform a new time study, and analyze whether the consumers have been underpaid. If they have been underpaid under the previous production standard, we will pay a retroactive adjustment to them. **Larry Workman** is responsible for timing a non-disabled individual each year. He should forward the results to **Kevin Gates**. If results are more than 10% greater or less than the existing average production standard, they will discuss the appropriate reaction with their respective supervisors.