

# How to Enforce Your 9.5 Rights

**TDU has produced an enforcement guide to help drivers enforce their 9.5 rights against unwanted excessive overtime.**

TDU's 9.5 Rights Enforcement Guide is designed to help drivers who do not want excessive overtime to stop the company from working you more than 9.5 hours a day more than twice a week—and to make UPS pay for violations.

This guide takes you through the 9.5 procedures and explains how to enforce your rights.

## Who is Eligible?

Package Car Drivers who are assigned to a route are eligible to get on the 9.5 list and file grievances. To qualify for the 9.5 Opt-In list, you have to work more than 9.5 hours in a day, excluding breaks, three times in a work week.

Cover drivers have different eligibility rules. Under the 2008-2013 contract, which is still in effect, a cover driver is only eligible to get on the 9.5 Opt-in list and to file 9.5 grievances if he or she works the same bid route for a full workweek.

Once the new contract is completely ratified, cover drivers will be eligible to exercise their 9.5 rights if:

1. the driver covers a route for a full week
2. the driver bids or is assigned to cover a route for a full week but is prevented from completing that bid or assignment due to reassignment by UPS
3. the driver has four (4) years of seniority as a full-time package driver.

## Qualifying for the 9.5 List

Exercising your 9.5 rights is a two-step process. First you have to get on the 9.5 Opt-In list. Then you have to file a grievance every time you work more than 9.5 hours a day three times in a week.

To win grievances, it is critical to follow and document these steps. That's what the 9.5 Rights Documentation Form is for.

Step one is to document a work week in which you worked three days over 9.5 hours. The 9.5 Rights Documentation Form includes a table where you can document the simple but critical details: dates worked, start time, unpaid breaks, end time, and total hours worked.

## Requesting to Get on the 9.5 List

Once you have documented a work week in which you worked over 9.5 on three days, you have to tell your Center Manager that you want to be on the 9.5 list.

Fill out a 9.5 Opt-In Request Form with the signature of the member and the steward to hand in to the Center Manager.

## Meeting with Management

Take your shop steward and meet with the Center Manager. At the meeting, turn in the Opt-In Request Form and ask for the Center Manager's signature.

Your Center Manager should add you to the 9.5 Opt-In list for a five-month period, excluding November and December. This means if you get added to the Opt-In list in October, you will stay on the list for October through May—five months, excluding peak.

If you worked more than 9.5 hours on three days in one work week, you automatically qualify for the 9.5 list. (**Remember:** cover drivers are covered under different rules.)

The Center Manager may try to get you not to go on the list. But it is your right.



The 9.5 rules do not permit management to use “over-allowed” or any production number to block you from getting on the 9.5 list. If you worked over 9.5 hours on three days in a work week, then you qualify for the list. Period.

Use the Enforcement Form to document what happens in your meeting with your Center Manager.

If the Center Manager denies your right to get on the 9.5 Opt-In list, the steward should document that fact and their reasons why on the 9.5 Rights Documentation Form.

Then the steward should file a grievance saying that the company violated Article 37 by failing to add you to the 9.5 Opt-In list after you had worked more than 9.5 hours on three days in one work week.

If the Center Manager makes any threats that you will be over-supervised, given extra OJS rides, or be targeted with telematics, document that too. Use the extra space on the back of the form as needed.

The more documentation you have—and the more drivers in your center that are getting on the 9.5 Opt In list—the more protection you will have.

## Filing 9.5 Grievances

Once you are on the 9.5 list, you should use the 9.5 Violation Form to document every time you work more than 9.5 hours three times in a work week.

Again, you will need the simple but critical details: dates worked, start time, end time, unpaid breaks and total hours worked.

Armed with your evidence, go with your steward to speak with the Center Manager to request that the company comply with Article 37 of the contract, which calls for the company to adjust the driver’s work schedule and pay triple time pay for hours worked over 9.5 hours in a day.

If the company agrees to resolve the problem, note the settlement on the 9.5 Rights Documentation Form.

Depending on the situation, an appropriate settlement calls for adjusting your load, triple time pay for hours worked over 9.5 hours in a day, or agreement to pay the triple time penalty on the next violation.

If the company doesn’t resolve the problem, file a grievance. Make sure to grieve for penalty pay and to grieve the company's failure to adjust your load.

You should file a new grievance every week the company works you over 9.5 as long as you are on the 9.5 list.

## We’re Stronger Together

Teamster members can enforce our rights—but we’ve got to document it each step of the way.

Use the new 9.5 materials to enforce your rights. Talk with other drivers in your center. Chances are you’re not the only driver who wants your 9.5 rights respected. We’re stronger when we work together.

# The ABCs of Enforcing Your 9.5 Rights

**Step 1. Document Your Excessive Overtime.** Use the 9.5 Rights Documentation Form to document any work week in which you work over 9.5 hours on three days.

**Step 2. Tell your Center Manager you want to be on the 9.5 List.** Fill out and turn in a 9.5 Opt-In List Request Form. Make sure to bring your steward with you.

**Step 3: Report a 9.5 Violation.** Once you are on the 9.5 list, keep track of any work week in which you work more than 9.5 hours three times. Take your steward and report the 9.5 violation to the manager. Depending on the situation, an appropriate next step would be adjusting your load, triple time pay for hours worked over 9.5 hours in a day, or agreement to pay the triple time penalty on the next violation.

**Step 4 (if necessary):** If your center manager does not resolve the problem, file a grievance. The grievance should state that management violated Article 37 by working a driver on the 9.5 Opt-In list more than 9.5 hours, three times in one work week. The remedy should state: Pay triple time for all hours worked over 9.5 during the week. Adjust load. Cease and desist from working driver over 9.5. Make whole in every way.



# 9.5 RIGHTS ENFORCEMENT FORM

This form was produced by Teamsters for a Democratic Union (TDU) to help UPS Teamsters enforce their 9.5 rights. Use this form to document any 9.5 violations and the steps you have taken to comply with 9.5 procedures. Do not turn this form into management. Keep it for your records so you have the documentation you need to enforce your rights. For more information, go to [makeUPSdeliver.org](http://makeUPSdeliver.org) or contact TDU at 313-842-2600.

## **INSTRUCTIONS TO MEMBERS**

Article 37 of the contract provides you with protections if you are continuously worked more than 9.5 hours a day. TDU has produced this form to help you document 9.5 violations and enforce your rights. Exercising your 9.5 rights is a two-step process. It is critical to follow and document these steps. **Note:** Additional restrictions apply to Cover Drivers. Go to [makeUPSdeliver.org](http://makeUPSdeliver.org) for more information.

**Step One:** Use this form to document a single work week in which you worked three days over 9.5 hours. Go with your steward and inform the Center Manager that you want to be put on the Opt In list. Once you are on the Opt In list you will stay on the list for five (5) months, excluding Nov. and Dec. (Once five months have passed, excluding Nov. and Dec., you will be removed from the Opt In list and you will have to re-qualify by working three days over 9.5 hours in one work week and requesting to be put back on the list.)

### **You must already be on the Opt In list before you can proceed to Step Two and file a grievance**

**Step Two:** Once you are on the Opt In list, use this form to document every time you work three days over 9.5 hours in a single work week. Follow the Step Two instructions below. Document your meeting with management and file a grievance if needed.

Name of member making report (Please print) \_\_\_\_\_ Phone # \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Center \_\_\_\_\_ Route \_\_\_\_\_ Date of Hire \_\_\_\_\_ Pay Rate \_\_\_\_\_

Fill out this form to document the days that you worked more than 9.5 hours on three or more days in one week.

Day	Date	Route	Start Time	Lunch	End Time	Hours Worked
Mon						
Tues						
Wed						
Thurs						
Fri						

## **DOCUMENT YOUR MEETINGS WITH MANAGEMENT**

**Step One:** If you are not already on the Opt In list go with your steward to the Center Manager’s office and tell him/her that you want to be on the Opt In list. Use the section below to document that you will be added to the list for five months—and retain this form for your records. **You must be on the Opt In list to be able to file a 9.5 grievance.** If the manager refuses to add you to the Opt In list, document this fact and file a grievance.

**Step Two:** If you are already on the Opt In list, go with your steward to speak with the Center Manager to request that the company comply with Article 37 which calls for the company to adjust the driver’s work schedule and pay triple time pay for hours worked over 9.5 hours/day. If the Company agrees to pay for the violation, note the settlement here. If the Company does not agree, file a grievance. You can download sample grievance language at [www.tdu.org/9.5samplegrievance](http://www.tdu.org/9.5samplegrievance)

Name of Center Manager: \_\_\_\_\_ Date/Time of Meeting \_\_\_\_\_

Meeting notes (Use back if needed) \_\_\_\_\_

Result of Step One Meeting:

Member added to Opt In List for the following five months (Circle 5): Jan Feb March April May June July Aug Sept Oct

**Note:** 9.5 rights cannot be exercised in Nov. and Dec. These months do NOT count toward the 5-month period that the member is on the Opt In list.



# 9.5 OPT-IN LIST REQUEST FORM

Pursuant to Article 37 of the contract, I am hereby notifying the company through my Center Manager that I wish to be placed on the 9.5 Opt-In list for a five-month period, excluding November and December.

As documented below, I worked more than 9.5 hours on three or more days in one work week.

Day	Date	Route	Start Time	Lunch	End Time	Hours Worked
Mon						
Tues						
Wed						
Thurs						
Fri						

\_\_\_\_\_  
Driver's Name [PLEASE PRINT]

\_\_\_\_\_  
Driver's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Shop Steward Name

\_\_\_\_\_  
Shop Steward Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Center Manager's Name

\_\_\_\_\_  
Center Manager's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_ Indicate here if Center Manager refuses to sign. Write down date, time and location that this form was delivered to the Center Manager without their signature.

\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_

*The driver and shop steward should each maintain a copy of the completed form.*