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Overtime Pay and Compensatory Time	ACA Standards: 2-CO-1C-01, 4-4081, 4-4094, 4-ACRS-7B-19, 4-APPFS-3A-21		
Joe M. Allbaugh, Director Oklahoma Department of Corrections		Signature on File	

Overtime Pay and Compensatory Time

The following procedure is established to ensure that the agency's practices for the payment of overtime comply with all applicable state statutes and the Oklahoma Merit Rules for Employment, and to ensure that the agency adopts standards equivalent to

the regulatory requirements contained in the Fair Labor Standards Act (FLSA). (2-CO-1C-01)

All nonexempt employees must be appropriately compensated for any overtime worked. The agency will neither condone nor tolerate actions which place the agency at risk for violation of the laws and regulations governing overtime. Any supervisory employee, employee with authority for personnel matters, or other agent or officer of the agency, with knowledge of any procedural or FLSA violation, must take immediate corrective action or report the facts so that corrective actions may be taken.

I. Responsibilities

A. Employees

Employees are responsible for:

1. Accurately recording all time worked on time sheets;
2. Requesting and receiving authorization from the supervisor prior to working any hours that would constitute overtime and complying with any supervisory directives regarding such approval or authorization; and
3. Ensuring that no work is performed outside of the authorized hours.
 - a. Employees who are on an uncompensated meal period must not perform any work activities during such a break and should remove themselves from work areas where it is foreseeable that their mealtime could be interrupted. All interruptions to the meal period or missed meal periods must be reported to the supervisor and appropriately recorded as work time; and
 - b. Employees are not encouraged to report early or to remain after their shift, unless approved by the supervisor and in the pursuit of assigned job duties. If at the work location during non-working hours, employees are not to engage in any activity which would constitute work.

B. Supervisors

Supervisors are responsible for:

1. Administering the provisions of this procedure in a manner which best serves the interests of the agency and actively manages overtime expenditures;
2. Making work week (period) adjustments, whenever possible, in

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order to control overtime expenses;

3. Reviewing, evaluating, and monitoring the use of overtime and compliance with the FLSA to ensure that:
 - a. Appropriate work hours are scheduled and recorded on time sheets;
 - b. No work is performed outside the assigned work schedule unless specifically authorized; and
 - c. Assigned job duties are consistent with the exempt or nonexempt status of the employee's position.
4. Informing employees of the process for requesting approval to work overtime.

C. Facility/District/Unit Human Resource Management Specialists

Human Resource Management Specialists (HRMS) are responsible for:

1. Ensuring that overtime notification posters published by the U.S. Department of Labor Wage and Hour Division are appropriately posted at each work location; and
2. Assisting supervisors in calculating overtime and compensatory time for time management and record keeping purposes.

II. Establishment of the Work Week (Period)

A. Seven Day Work Period

The work week for all seven-day work period agency employees is established as beginning at 12:00 a.m. Saturday through 11:59 p.m. Friday.

B. 28-Day Work Period

The work period for nonexempt probation and parole officers, who are eligible for overtime, will consist of 28-day tours with the initial tour beginning at 12:00 a.m., Saturday, July 1, 2006 ([Attachment C](#), attached).

III. FLSA Status

A. Job Family Level Guide

The "Job Family Level Guide" ([Attachment A](#), attached) indicates job family levels by exempt (E), exempt/overtime paid (EO), and nonexempt

(N) status.

1. Exempt (E): Those employees not covered by the overtime provisions of FLSA and exempt from overtime payment.
2. Exempt Overtime Eligible (EO): Those employees not covered by the overtime provisions of FLSA but eligible for overtime payment due to prevailing market conditions (Merit Rule 260:25-7-12(f)).
3. Nonexempt (N): Those employees covered by the overtime provisions of the FLSA and eligible for overtime payment.

B. Exceptions to the FLSA Exemption Status

1. The exempt status of any individual position may change to nonexempt status if it is determined that the employee occupying that position has been assigned nonexempt duties. The determination of whether or not an employee is eligible for overtime (nonexempt) depends on the actual job duties and responsibilities assigned to that employee, and cannot be determined solely by an examination of the title or job family level associated with the employee's position.
2. When an audit of an exempt position results in a determination that the position's duties and responsibilities are nonexempt, the supervisor must either change the assigned job duties to be consistent with the exempt status or contact the central Human Resources Unit for assistance in determining the appropriate course of action.

C. Suspension Without Pay for Exempt Employees

No exempt employee (either classified or unclassified) may be suspended without pay for any period of time less than the established work week beginning 12:00 a.m. Saturday through 11:59 p.m. Friday, or increments thereof unless the suspension is imposed for violation of workplace conduct rules (29 CFR 541.602).

IV. Determining Hours Worked

All time during which an employee is allowed to perform work, whether previously authorized or not, must be counted as hours worked. This includes any time when the supervisor knew or reasonably should have known that work was done and did not take steps to stop the work.

A. Shift Briefings

Shift briefing is considered work time. Employees who participate in shift

briefings will record the appropriate amount of time worked on their time sheet. Shift briefing typically accounts for a minimum of 15 minutes of work time per shift for attending shift briefing and 30 minutes for conducting shift briefing.

B. Break Time (29 C.F.R. 785.18)

1. Break or rest periods of 20 minutes or less are granted at the discretion of the supervisor and are fully considered as part of the regularly scheduled work time. Breaks can therefore only be taken after an employee reports for work and before an employee departs from work. Taking breaks either less frequently or more frequently does not decrease or increase the employee's assigned working hours.
2. Breaks are considered time worked; therefore, employees must remain at the worksite and be available to work. If the supervisor determines there is a critical need for the employee to perform work duties, breaks may be interrupted. There is no provision to make up or reschedule interrupted breaks. Supervisors are responsible for monitoring employees' 20-minute time limit on breaks. Employees may lose their break privileges if break time is abused.
3. As the use of tobacco products is prohibited on any and all properties, buildings, land and vehicles owned, leased, or contracted for use by the State of Oklahoma, breaks for the use of tobacco products are prohibited. Departure from grounds or property of the worksite for any purpose or length of time except that described as meal periods, lunch breaks and meal time in Section IV. item C. of this procedure will be covered by an approved leave program.
4. An employee who requires break time for breast-feeding or expressing breast milk for her nursing child will be permitted to take break time, upon request and within the limits provided in the section above. Such breaks will be permitted each time the employee has the need to express the milk, for one year after the child's birth.
 - a. Employees who require break time for breast-feeding or expressing breast milk in excess of the break time authorized by this section will be permitted to reasonably extend the break time using appropriate paid or unpaid leave.
 - b. Employees will discuss the need for and the duration of such breaks with their supervisors prior to taking such breaks.

- c. Facilities/districts/units will provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers, the public and offenders, where an employee can breast feed or express milk.

C. Meal Periods, Lunch Breaks and Meal Time (29 C.F.R.785.19)

Meal periods are not considered work time if:

1. The periods are 30 minutes or longer; and
2. The employee is completely relieved from performing any duty, and is not required to perform any work activity.

Employees must record any meal period interruptions as work time on their time sheets and advise their supervisor of interruptions or missed meal periods.

D. Waiting Time (29 C.F.R. 785.15 and 16)

Time spent waiting on duty is considered as work time. An employee who is at work and has not been relieved of duty, but is waiting for work to arrive or work instructions is on work time during such periods of inactivity.

E. Early Arrivals/Late Departures

Employees who arrive before their shift and begin work upon arrival or continue to work after the scheduled ending time must count that time as work time. Employees who arrive early or stay after their shift and do not engage in work are not on work time. However, the scheduling of work hours remains at the discretion of the supervisor. Employees are not entitled to early arrivals or late departures.

F. Daylight Savings or Standard Time Changes

Employees working during the change to daylight savings time each spring or during the change to standard time each fall will receive credit for actual hours worked for that completed shift. Work adjustments within the seven-day work period can be made to correct any resulting shortages or to prevent the accrual of overtime hours.

G. Travel (29 C.F.R. 785.34)

Normal travel between home and work is not work time. This is true whether an employee works at a fixed location or at different job sites. Travel time is considered compensable time when it occurs under the following circumstances:

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1. If an employee is required to pick up equipment (this does not include a state vehicle), materials, other employees, or to receive instructions, before traveling to the work site, work time starts at the time of the pick-up.
2. One-day assignment: When an employee who regularly works at a location is given a one-day assignment in another city, such travel is regarded as work time. The usual time required traveling from home to work and mealtime, if provided, will be deducted.
3. Extended assignments: When an assignment requires overnight accommodations for more than one night, travel time is limited to the time spent driving/riding for only those round trips that are authorized by the facility/district/unit head. Facility/district/unit heads will compare the cost of round trip travel with the cost of overnight lodging when deciding to authorize more than one round trip.

H. Travel Time After Being Called Back to Work (29 C.F.R. 785.36)

Travel time spent by employees after being called back to work is considered work time.

I. Conference/Training Attendance (29 C.F.R. 785.27 through 32) (4-4081, 4-4094, 4-ACRS-7B-19, 4-APPFS-3A-21)

1. Employees who attend conferences/training at the expense of the agency are considered the agency's representatives to the conference/training for the benefit of the employer and therefore on work time. However, employees are not considered to be on work time for voluntary, social events or other non-educational activities for which an employee elects to participate and that exceed the normal number of working hours.
2. Employees who attend any training provided by the agency which is required by their supervisor or agency policy are on work time.
3. Employees who attend job related training that is neither paid for, nor required, by the agency (such as any training or education which is a requirement of a profession or a licensing board) may do so on work time only during regularly scheduled working hours and with the permission of their supervisor.

J. On-call Time (29 C.F.R. 785.17)

Agency employees who are "on-call" are not considered to be on work time and therefore will not be subject to any restriction on movement that is considered appropriate for work time. Supervisors must ensure that on-

call instructions to employees conform with item 2. below. Employees required to comply with instructions described in item 1. below will be on work time.

1. On-Call (Work Time)

On-call time is considered work time when the employee's freedom of movement is so restricted as to prevent the employee from using the time for personal purposes. An employee's freedom of movement is considered restrictive if the employee must or is required to:

- a. Remain on the employer's premises; or
- b. Stay at home (or other fixed location) by the phone waiting for a call to return to work.

2. On-Call (Non-Work Time)

On-call time is not considered work time if the employee can come and go freely and it is not so restricted as to prevent the employee from using the time for personal purposes. An employee's freedom of movement is not considered restricted if the employee is:

- a. Required to leave a telephone number where the employee can be reached but can leave that location;
- b. Required to carry a beeper/pager; or
- c. Required to refrain from consuming alcohol during the on-call time.

3. Reporting to Work While On-Call (74 O.S. § 840-2.29)

- a. A classified employee who is on-call will receive a minimum of two hours of work time if the employee reports to a work location while on-call.
- b. Unclassified employees who report to a work location while on-call will receive work time credit for the actual amount of time required for travel and work.

K. Staff as Volunteers

Employees may be permitted to donate time to the agency in a volunteer capacity provided the volunteer activity does not present a conflict of interest with the primary mission of their paid positions or a potential for additional work time resulting in payment of overtime.

1. Guidelines for Permitting Staff to Volunteer

- a. No employees in the correctional officer or probation and parole officer series may serve as a volunteer for any activity involving offender contact;
- b. No employees may serve as a volunteer in any capacity where the volunteer role or activity resembles the employee's regularly assigned job duties if those duties are nonexempt; and
- c. Whenever possible, staff volunteer assignments should be made at locations other than the place of employment.

2. Assessing Appropriateness of Volunteer Assignment

Facility/district/unit heads will ensure that volunteer assignments are appropriate. Prior to permitting staff to serve in any volunteer capacity, the facility/district/unit will:

- a. Develop a job description which details the duties and responsibilities of the volunteer position;
- b. Complete [Attachment B](#) entitled "Staff Volunteer Activity Request Form" (attached) and forward, with a copy of the volunteer job description, to the central Human Resources Unit for approval. Approved forms will be sent to the field HRMS to be placed in the employee's personnel file; and
- c. Any time there is a substantial change in a staff volunteer's regularly assigned job duties, a new "Staff Volunteer Activity Request Form" ([Attachment B](#)) must be completed.

L. Animal Handling

The time spent caring for grooming, walking, feeding or "bonding with" animals used at facilities is considered work time.

V. Overtime Compensation for Nonexempt Employees

A. Authorization for Overtime Work

An employee may not work overtime unless prior approval or authorization is received from the supervisor. Overtime is considered authorized, and must be compensated, when:

- 1. The supervisor specifically approves or authorizes the overtime;

2. The supervisor accepts work done during overtime hours that were not specifically approved or authorized; or
3. The supervisor has knowledge that the employee is working during non-authorized overtime hours and does not stop the employee from working.

Compensation for overtime which is paid in accordance with Section V. A. items 2. or 3. of this procedure does not preclude the supervisor from disciplining an employee for working overtime without receiving prior authorization.

B. Payment of Overtime (nonexempt)

1. FLSA nonexempt (N) employees and exempt overtime (EO) eligible employees on a seven-day work cycle will be paid one and one-half times their "regular rate" for hours worked over 40 hours in the seven-day work period. Probation and parole officers on a 28-day cycle will be paid one and one-half times their "regular rate" for hours worked over 171 in the 28-day work period ([Attachment C](#)). Hours worked may include jury leave (during normally scheduled work hours) in accordance with Merit Rule 260:25-15-46.
2. For probation and parole officers on a 28-day cycle, all hours worked in excess of 160, and equal to or less than 171 for 28-day work period employees, are paid at straight time.
3. For FLSA nonexempt (N) employees and exempt overtime (EO) eligible employees on a seven-day work cycle, straight time will be paid for hours in paid status (other than work time) in excess of 40 hours within the work period.

C. Overtime Accrual/Work Schedule Adjustments

1. Overtime accrual is determined at the end of each work period.
2. Whenever possible, supervisors will adjust work schedules during the employee's current work period to prevent the accrual of overtime.

VI. Compensatory Time for Exempt Employees

All exempt employees are eligible to accrue compensatory time. No payment will be made in lieu of compensatory time for exempt employees.

A. Accrual

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1. One hour of compensatory time is earned for each hour in paid status more than 40 in any seven-day work period as defined by this procedure.
2. Accrued compensatory time which is not used within 180 days will be lost.
3. Accruals occur, and are added to balances available for use, at the end of the affected month. Therefore, compensatory time is not available for use during the month in which it was earned.
4. The maximum compensatory time which may be accrued by an exempt employee will be 480 hours.

B. Authorization to Use Compensatory Time

1. Employees must request and receive approval from their supervisor prior to using any accrued compensatory time.
2. Supervisors are not required to either approve the use of compensatory time or ensure that employees have the opportunity to use compensatory time before it is lost.

VII. Exceptions

Payment of overtime that is the result of a finding of an audit, investigation, or external order is not subject to these procedures.

VIII. Record Keeping and Reporting

To ensure compliance with FLSA, all hours worked and leave taken will be recorded on a daily basis in accordance with [OP-110120](#) entitled "Procedures for Time/Leave Sheets and Payroll Processing."

A copy of this procedure will be filed with the Office of Management and Enterprise Services (OMES): Human Capital Management (HCM).

IX. References

Policy Statement No. P-110100 entitled "Uniform Personnel Standards"

OP-110120 entitled "Procedures for Time/Leave Sheets and Payroll Processing"

29 C.F.R. 541.102-105, 107, 115, 205, 207, 301, 303-306, 602

29 C.F.R. 785.15-17, 18, 19, 27-32, 34, 36

74 O.S. § 840-2.15, 2.29

Fair Labor Standards Act (29 USC 201 et. seq.)

Merit Rule 260:25-7-12 and 260:25-15-46

Oklahoma Personnel Management Policy Guidelines: Fair Labor Standards Act

X. Action

The associate director/division head is responsible for compliance with this procedure.

The chief administrator of Employee Services is responsible for the annual review and revisions.

Any exception to this procedure will require prior written approval from the director.

This procedure is effective as indicated.

Replaced: Operations Memorandum No. OP-110305 entitled "Overtime Pay and Compensatory Time" dated August 21, 2014

Distribution: Policy and Operations Manual
Department Website
Office of Management and Enterprise Services (OMES): Human Capital Management (HCM), State of Oklahoma

<u>Attachments</u>	<u>Title</u>	<u>Location</u>
Attachment A	“Job Family Level Guide”	Attached
Attachment B	“Staff Volunteer Activity Request Form”	Attached
Attachment C	“Probation and Parole Officer 28-Day Cycle”	Attached