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Department of Transportation

EXCESS WORK HOURS/OVERTIME PROCEDURE

AUTHORITY:

Sections 20.23(3)(a) and 334.048(3), Florida Statutes (F.S.)

REFERENCES

Section 110.219, F.S.; Chapters 60L-32 and 60L-34, Florida Administrative Code (F.A.C.); AFSCME Contract; The Fair Labor Standards Act (FLSA)

STATEMENT OF POLICY:

This procedure is for the Florida Department of Transportation to follow for scheduling, approving, and compensating employees who work excess/overtime hours.

SCOPE:

Department employees, supervisors, and managers.

DEFINITIONS:

Call Back - Unless otherwise provided in an applicable collective bargaining unit agreement, when a Career Service employee is on-call and is called back to the assigned or other designated work location beyond the employee's scheduled hours of work for that day.

Excess Hours - Hours or partial hours worked daily, which are over and above the employee's regularly scheduled work hours.

Excluded Position - A position designated as not eligible for overtime payment for overtime work.

Included Position - A position designated as eligible for overtime payment for overtime work.

On-Call – When a Career Service employee is instructed by the appropriate management to remain available to return to the work location on short notice to perform assigned duties during an off-duty period, and to leave word where the employee may be reached by phone or other electronic signaling device, the employee’s position must be designated as “on-call.”

Overtime – For Career Service and Selected Exempt Service (SES) positions designated as **Included**, overtime is defined as the hours of work suffered, permitted, or required, excluding holidays and leave with pay, in excess of 40 hours during the established workweek or in excess of the number of hours indicated in an extended period, as approved by the Department of Management Services.

Regular Compensatory Leave - Leave time earned for Career Service positions designated as **Excluded**, when employee works authorized and approved hours or partial hours in excess of 80 during a biweekly pay period.

Special Compensatory Holiday Leave – Leave time that a Career Service employee may earn in accordance with **Chapter 60L-34.0032, F.A.C.** Special compensatory leave time may be earned as a result of: (1) working on a holiday, (2) working extra hours during the work week or work period of a holiday, or (3) when a holiday falls on the employee’s regularly scheduled day off.

Special Compensatory Leave Office Closure - In accordance with **Rule 60L-34.0071(3)(e)1.a., F.A.C.**, all employees, including SES employees, appointed to positions below that of Bureau Chief or Bureau Chief comparable, who are required to provide essential services during a period in which a facility is closed due to an emergency or natural disaster will earn special compensatory leave credits for the hours worked during the facility closure.

Work Period (Contracted Hours)

- (a) **Included Employees** - (Workweek) 40 hours during a seven (7) calendar day period beginning at midnight on Friday and ending at midnight the following Thursday.
- (b) **Excluded Employees** - (Biweekly Pay Period) 80 hours during the 14 consecutive calendar days of a biweekly pay period.

1. APPROVAL PROCESS AND REQUIREMENTS FOR OVERTIME WORK

- 1.1 The Department has the authority to schedule employees to work excess/overtime hours beyond the regular workday.
- 1.2 **Employees are not authorized to work excess/overtime hours until the appropriate approval is received.**

- 1.3 Requests to work excess hours/overtime must be authorized by a Senior Management Service (SMS) or SES employee, unless a lower level management representative is given written authorization to approve such work.
- 1.4 Each supervisor is responsible for:
 - 1.4.1 Arranging the work of the unit so that, whenever possible, all assignments can be satisfactorily completed within the employee's work period.
 - 1.4.2 Adjusting the employee's work schedule or leave schedule, whenever possible, so that actual hours worked, combined with holiday time and/or approved leave time, do not exceed the employee's total work period (contracted hours).
 - 1.4.3 Approving requested leave with pay only in amounts necessary to ensure that an employee receives pay for 40 hours during a workweek for **Included** employees or (80 hours in a pay period for **Excluded** employees. Any adjustments or offsets to approved leave will be made at the end of the employee's work period.
 - 1.4.4 Immediately reporting any extraordinary work requirements, employee absences, or other conditions that might necessitate compensation of one or more employees for hours in excess of their normal work period to the next level supervisor.
 - 1.4.5 Approving or obtaining authorization for excess/overtime hours from the appropriate management representative prior to allowing or requiring an employee to work.
 - 1.4.6 In an emergency, when the supervisor is not able to obtain prior approval, he or she may authorize the employee's use of excess/overtime hours and obtain the appropriate level approval later.
 - 1.4.7 Supervisors are expected to plan and manage the required workload in their unit. Except for illness or emergencies, requests for leave should be approved only when the employee's absence will not require the employee or other employees in the unit to work extra hours during the work period.
- 1.5 **COMPUTING OVERTIME**
 - 1.5.1 Time spent on holidays, or in leave with pay status (annual leave, sick leave, regular compensatory leave, special compensatory leave, personal holiday, or administrative leave), shall be counted as compensable hours for pay purposes but shall not be counted as hours worked when determining if an

employee has performed overtime work. Only the number of leave with pay hours needed to bring the employee's total to 40 hours in a workweek for **Included** employees or 80 hours in a pay period for **Excluded** employees will be used.

EMPLOYEES WHO HAVE WORKED EXTRA HOURS AND HAVE USED MORE THAN ONE TYPE OF LEAVE DURING THE WORK PERIOD MAY DESIGNATE WHICH TYPE(S) OF LEAVE TO OFFSET. Employees are responsible for offsetting leave directly on the timesheet which is submitted to People First, and supervisors are responsible for checking and approving their employees' timesheets correctly.

Before any annual leave or regular compensatory leave is charged, the People First system will require the use of special compensatory leave credits pursuant to the following priority order:

- **Special Comp – Holiday Carry-Over**
- **Special Comp – Closures Carry-Over**
- **Special Comp – Holiday**
- **Special Comp – Closures**
- **Special Comp – Pre 7/2012**

However, an employee may request to use annual leave, in lieu of special compensatory leave credits in accordance with the federal Family and Medical Leave Act, or the Family Support Work Program, or both.

EXAMPLE #1:

An **Included** employee works eight (8) hours on Friday, calls in to report an illness and is absent all day Monday, but reports to work on Tuesday morning. The employee submits a written request for one (1) day of sick leave for Monday's absence. The employee works eight (8) hours on Tuesday, 10 hours on Wednesday, and eight (8) hours on Thursday. Because the employee worked a total of 34 hours, only six (6) hours of sick leave are needed to complete the employee's 40 hour workweek. The supervisor will approve the employee's use of six (6) hours of sick leave for Monday's absence.

EXAMPLE #2:

An **Included** employee works 12 hours on Friday, 10 hours on Monday, eight (8) hours on Tuesday, and eight (8) hours on Wednesday. The employee requests and is approved to use one (1) day of annual leave for Thursday. Because the employee worked 38 hours during the workweek,

the employee will only use two (2) hours of annual leave for Thursday's absence.

EXAMPLE #3:

An **Included** employee requests and is approved to use eight (8) hours of annual leave on Friday (the first day of the pay period). The employee works eight (8) hours each day on the following Monday, Tuesday, and Wednesday. On Thursday, the employee works ten (10) hours totaling 34 hours for the workweek. The amount of annual leave used shall be offset by any extra hours worked by the employee later in the same workweek. The supervisor would approve six (6) hours of annual leave for the employee's absence on Friday.

- 1.5.2 Certain types of administrative leave with pay** must be granted to an employee on an hour for hour basis if the employee qualifies, to ensure pay for a full work period. The conditions for requesting and authorizing the use of administrative leave are found in ***Chapter 110, Part 1, F.S. and Chapter 60L-34.0071, F.A.C.*** The supervisor must ensure that the hours of work and the amount of administrative leave granted do not exceed the contracted hours in the employee's work period.

When approving administrative leave, the supervisor should review the employee's request and time sheet to ensure the use of administrative leave hours comports with all requirements and is consistent with known facts and available documentation.

- 1.5.3 Time spent in the observance of a recognized State holiday** shall be counted as compensable hours for pay purposes but shall not be counted as hours worked when determining if an employee has performed overtime work. A State holiday cannot be offset or adjusted, regardless of the number of hours the employee actually works. A Career Service employee may earn special compensatory leave credits for working on a holiday or working extra hours during the holiday workweek (**Included** employees) or pay period (**Excluded** employees). Although a State holiday cannot be offset, other leave(s) with pay (administrative, annual, sick, regular, and special compensatory leave) will be offset when an employee works on a holiday or works extra hours during the workweek (**Included** employees) or pay period (**Excluded** employees) of a holiday.

Note: The employee's personal holiday must be offset where applicable.

EXAMPLE:

An **Included** employee observed a State holiday which fell on a Friday, the first day of the workweek. During the remainder of the work week, the employee worked eight (8) hours on Monday, eight (8) hours on Tuesday, ten (10) hours on Wednesday, and ten (10) hours on Thursday. At the end of the workweek, the employee's time sheet will reflect eight (8) hours for the holiday on Friday and 36 work hours for a total of 44 hours. The employee will receive 40 hours of pay and four (4) hours of special compensatory leave because the holiday cannot be offset by the excess work hours.

- 1.5.4** Required attendance at meetings, conferences, and training sessions shall be counted as hours worked for determining when an employee has performed overtime work.
- 1.5.5** Time spent in official travel during an employee's normal work hours, whether on regular work days or scheduled days off, shall count as hours worked. When an employee is in official travel status, time spent in travel outside the normal work day shall be counted as hours worked. **Travel to and from an employee's home and regularly assigned headquarters shall not be counted as hours worked unless the employee is officially placed in work status.**
- 1.5.6** An employee shall count **driving time from his or her headquarters to the airport and from the airport to his or her headquarters as work time.** However, if the employee leaves from his or her home, only the amount of driving time to the airport that exceeds their normal home to work travel time may be counted as hours worked. The same applies when the employee returns and leaves the airport to return home. An employee may count required airline check-in time before the scheduled flight departure time as compensable travel time. However, it is up to the supervisor to determine the reasonableness of reporting time in excess of one (1) hour before the scheduled airline departure time.
- 1.5.7** When a Career Service employee is **on-call** and is **called back to work** after having completed and been released from his or her regular work shift, all time spent in **actual work** shall be counted when determining if the employee has performed overtime work. When the employee reports back to his or her normal place of work, time will begin and end when the employee reaches and is released from the work location, respectively. Travel time to the work location (whether primary or another location) is not work time. However, if the employee is called back to the primary work site and then has to travel to another location to complete the work, the travel time between the two sites is work time. **Unless otherwise provided in an applicable collective bargaining unit agreement, the employee shall be**

credited with the actual time worked or a minimum of two (2) hours, whichever is greater.

1.5.8 When a Career Service employee **is not placed on-call**, but is called back to work more than the scheduled hours of work, unless otherwise provided in an applicable collective bargaining unit agreement, the employee is only credited for the actual time worked (hours type 1000). The employee is also **not** eligible for the two (2) hours of guaranteed call-back time because he or she has not been placed on-call.

1.5.9 SES and SMS employees are **not** eligible for the on-call additive or the two (2) hours of guaranteed call-back time.

1.6 COMPENSATION FOR OVERTIME WORK

1.6.1 The method of compensating employees for overtime work is as follows:

1.6.1.1 Included: Employees appointed to Career Service or SES positions that have been designated by the Department of Management Services as **Included** for overtime purposes must be compensated at one and one-half (1.5) times the employee's regular hourly rate of pay. Employees eligible for overtime payments are not authorized to elect the accumulation of Fair Labor Standards Act (FLSA) special compensatory leave in lieu of overtime payment. When possible, excess work hours shall be offset during the same workweek. When it is not possible to offset excess hours, the overtime hours shall be paid at one and one-half (1.5) times for **Included** employees.

1.6.1.2 Excluded: Career Service employees appointed to positions that have been designated by the Department of Management Services as **Excluded** shall be compensated by granting regular compensatory leave credits on an hour-for-hour basis for all required overtime (greater than 80 hours per pay period). SES and SMS employees do not earn or accrue regular compensatory leave.

(A) Regular compensatory leave credits cannot be accumulated in excess of 240 hours. However, hours worked will still be recorded on the employee's time sheet but will not increase regular compensatory leave credits beyond the 240 hour balance.

(B) Regular compensatory leave credits may be used in any increment for any purpose when approved in advance by the appropriate supervisor. The supervisor may require the employee to use these credits at any time.

- (C) Supervisors shall make reasonable efforts to allow employees to use regular compensatory leave credits.
- (D) Regular compensatory leave credits are not transferable to another agency or pay plan (for example: Career Service to SES, or SES to Career Service). Unused credits shall be forfeited upon separation from the agency or the pay plan.

1.6.1.3 SES or SMS employees filling excluded positions are expected to work the necessary hours required, and shall not be compensated for overtime unless required by law or approved by the Department of Management Services.

1.7 Special Compensatory Holiday Leave

Except for sick leave, personal holiday, and administrative leave, an employee must use special compensatory leave balances before any other leave type is authorized. When an employee with special compensatory leave credits requests use of annual or regular compensatory leave, the supervisor shall inform the employee that he or she will authorize the use of special compensatory leave credits for the employee's absence from work. When the employee's special compensatory leave credits are exhausted, other leaves with pay may be approved in accordance with Chapter 60L-34, F.A.C. The employee may request to take authorized leave without pay instead of using special compensatory leave credits. Special compensatory leave is used pursuant to the following priority order:

- Special Comp – Holiday Carry-Over
- Special Comp – Closures Carry-Over
- Special Comp – Holiday
- Special Comp – Closures
- Special Comp – Pre 7/2012

- (A) Employees in positions that are covered under certain collective bargaining unit agreements may be subject to the "use it or lose it" contract provision. These employees must use special compensatory leave credits earned May 1 through October 31 by October 31. Leave credits earned from November 1 through April 30 must be used by April 30. Leave not used by the established deadline dates is forfeited.
- (B) For employees in positions that are not covered under certain collective bargaining unit agreements, special compensatory leave balances earned and not used by the established deadline dates stated in

paragraph (a) above will be moved to a pre-July 2012 special compensatory leave category.

- (C) Special compensatory leave credits may be used for any purpose as long as the leave request is approved, in advance, by the employee's immediate supervisor.
- (D) Upon termination from the agency, the employee shall be paid for unused special compensatory leave credits, unless otherwise provided in an applicable collective bargaining unit agreement.
- (E) Special compensatory leave credits are not transferred to another agency or pay plan. Upon the employee's transfer to another agency or pay plan, the employee will be paid for unused special compensatory leave credits unless otherwise provided in an applicable collective bargaining unit agreement.

1.8 Special Compensatory Office Closure Leave

Except for sick leave, personal holiday, and administrative leave, an employee must use special compensatory leave balances before any other leave type is authorized. When an employee with special compensatory leave credits requests use of annual or regular compensatory leave, the supervisor shall inform the employee that he or she will authorize the use of special compensatory leave credits for the employee's absence from work. When the employee's special compensatory leave credits are exhausted, other leaves with pay may be approved in accordance with Chapter 60L-34, F.A.C. The employee may request to take authorized leave without pay instead of using special compensatory leave credits. Special compensatory leave is used pursuant to the following priority order:

- Special Comp – Holiday Carry-Over
 - Special Comp – Closures Carry-Over
 - Special Comp – Holiday
 - Special Comp – Closures
 - Special Comp – Pre 7/2012
- (A) Employees in positions that are covered under certain collective bargaining unit agreements must use the leave within 120 calendar days from the end of the work period in which the leave is credited or the leave is forfeited unless extended by the agency.
 - (B) For employees in positions that are not covered under certain collective bargaining unit agreements, special compensatory leave balances earned and not used by the established deadline dates will be moved to a pre-July 2012 special compensatory leave category.

- (C) Special compensatory leave credits may be used for any purpose as long as the leave request is approved, in advance, by the employee's immediate supervisor.
- (D) Upon termination from the agency, the employee shall be paid for unused special compensatory leave credits, unless otherwise provided in an applicable collective bargaining unit agreement.
- (E) Special compensatory leave credits are not transferred to another agency or pay plan. Upon the employee's transfer to another agency or pay plan, the employee will be paid for unused special compensatory leave credits unless otherwise provided in an applicable collective bargaining unit agreement.

2. TRAINING

Training for this procedure is provided as part of the mandatory Attendance and Leave Module presented in Basic Supervisory Skills Training for supervisors and managers.

3. FORMS

None required.