

DEPARTMENT OF REHABILITATION
AND CORRECTION

SUBJECT: FLSA Overtime Exempt Employees	PAGE <u> 1 </u> OF <u> 4 </u>
	NUMBER: 35-PAY-02
RULE/CODE REFERENCE: DAS 06-06; ORC 124.18	SUPERSEDES: 35-PAY-02 dated 04/04/13
RELATED ACA STANDARDS:	EFFECTIVE DATE: March 18, 2015
	APPROVED: 

I. AUTHORITY

This policy is issued in compliance with Ohio Revised Code 5120.01 which delegates to the Director of the Ohio Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as the Director prescribes.

II. PURPOSE

The purpose of this policy is to establish a standardized policy for the designation of overtime exempt positions which complies with the Fair Labor Standards Act (FLSA), Ohio Revised Code 124.18, Ohio Administrative Code 123:1-43 and applicable DAS Directives and to set forth the requirements for providing compensatory time to FLSA overtime (OT) exempt employees and compensatory time or overtime to those FLSA OT exempts who have been approved in writing to receive overtime by the Directors of the Department of Rehabilitation and Correction (DRC) and the Department of Administrative Services (DAS).

III. APPLICABILITY

This policy applies to all employees exempt from collective bargaining units who are FLSA overtime exempt.

IV. DEFINITIONS

Active Work Status – The conditions under which an employee is actually in a work status and is eligible to receive pay but does not include vacation pay, sick leave, bereavement leave, compensatory time, holidays, personal leave, and disability leave.

Compensatory Time - Hours worked in excess of eighty active work status hours per pay period where such hours are required to complete assigned tasks or agency business. These excess hours can be used, when authorized, to take time off from work in a subsequent pay period.

FLSA Overtime Eligible Employee - An employee who is not specifically exempted from the overtime requirements of the Fair Labor Standards Act and Ohio Revised Code.

FLSA Overtime Exempt Employee - An employee whose salary and duties meet the requirements for any exemption available under the Fair Labor Standards Act.

Working Suspension - Employee works and receives wages for the time worked. Working suspension is a paper suspension and has the same effect for the purpose of progression.

V. POLICY

It is the policy of the Ohio Department of Rehabilitation and Correction to properly designate employees as overtime exempt in accordance with the Fair Labor Standards Act and the Ohio Revised Code and to provide guidelines for the approval, accrual, and use of compensatory time for overtime exempt employees and compensatory time or overtime for those approved in writing to receive overtime by the Directors of DRC and DAS.

VI. PROCEDURES

A. Designation and Change of Exempt Status

1. An employee whose salary and duties meet the requirements for any exemption available in the Fair Labor Standards Act shall be designated as FLSA OT exempt. Exemptions generally apply to employees exempt from collective bargaining who are in positions of pay range 12 or above, members of an Appointing Authority's executive staff, as well as some in positions of pay range 11 and below who have supervisory or other exempt responsibilities.
2. An FLSA OT exempt employee may be approved in writing by the Director to receive overtime for operational reasons including, but not limited to, recruitment/retention purposes. Such is the case for corrections captains, corrections lieutenants, nurse supervisors, psychiatric MR/nurse supervisors and others designated in writing by the Director.
3. When an employee's FLSA OT status changes from overtime eligible to overtime exempt, any existing compensatory time balance earned while overtime eligible shall automatically be paid to the employee at the time of the status change.

B. Accrual

1. No compensatory time, or overtime for those approved to receive overtime, may be granted for work which could have been completed during the 80-hour pay period.
2. Compensatory time, or overtime for those approved to receive overtime, may only be accrued when the employee is required to be in an active work status for more than 80 hours in the same pay period.
3. When approved, compensatory time for FLSA OT exempt employees is earned on an hour for hour basis.

4. When approved, compensatory time and overtime for FLSA OT exempt employees who have been approved in writing to receive overtime is earned at one and one-half times their total rate of pay.
5. Requests to work overtime by an FLSA OT exempt employee must be approved in advance by the Appointing Authority. In order to request compensatory time, or overtime for those approved to receive it, employees covered by this policy must complete the form entitled Authorization for Overtime/Compensatory Time for Overtime Exempt (DRC1744). This form must be signed in the appropriate place by the supervisor. The Appointing Authority may delegate authority for the approval to work overtime. Authority to grant approval may only be delegated to other management personnel. No employee may authorize his/her own compensatory time or overtime. Compensatory time or overtime which is not pre-approved may be approved or disapproved at the discretion of the Appointing Authority.
6. An employee's total compensatory time accrual may not exceed 120 hours. Compensatory time must be used within 365 days after it is accrued. If not used within 365 days, it will be forfeited.
7. Compensatory time may not be accrued during lunch hours or for work performed at home unless approved pursuant to a telecommuting agreement.
8. Compensatory time may not be used during the pay period in order to extend hours beyond the normal 80 hours and thereby accrue additional compensatory time.

C. Reporting of Overtime and Reporting and Use of Compensatory Time

1. In order to report the accrual of compensatory time or overtime, the Authorization for Overtime/Compensatory Time for Overtime Exempt (DRC1744) shall be completed.
2. Use of compensatory time must be approved in advance and is requested by submitting a Request for Leave form (ADM4258).
3. Appointing Authorities shall require that, by the conclusion of each pay period, all employees covered by this policy shall have submitted approved claims for any and all compensatory time or overtime for the corresponding pay period.
4. Compensatory time balances shall be reflected on the employee's pay statement.

D. Compensatory Time upon Transfer and Separation

1. Overtime exempt compensatory time cannot be transferred to another agency. When an employee transfers to another state agency, the available compensatory time balance shall be forfeited.
2. When an employee transfers from another agency to this agency, any compensatory time accrued at the other agency cannot be transferred.

3. When an employee transfers within the agency from one Appointing Authority to another Appointing Authority (e.g., Institution to Institution; Operation Support Center to Institution; Operation Support Center to DPCS, etc.), any compensatory time balance from the other Appointing Authority shall be transferred to the receiving Appointing Authority.
4. At the time of separation, any available compensatory time balance may not be converted for payment and may not be carried forward in the event of re-employment.
5. Cash payment for compensatory time balances is not allowed under any circumstances.
6. Use of compensatory time may not be used to extend the date of separation.

E. Discipline for FLSA Overtime Exempt Employees

Fines or suspensions for all FLSA OT exempt employees shall be served in forty-hour increments, except for working suspensions. Working suspensions can be served in any amount of hours. Vacation leave may be debited in any increment(s) for discipline. If leave balances are debited, the amount debited per pay period cannot exceed the amount accrued for that same pay period.

Related Department Forms:

Authorization for Overtime/Compensatory Time for Overtime Exempt
Request for Leave

DRC1744
ADM4258