

OVERTIME - NUMBER 2529

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

USE OF OVERTIME

The use of overtime should be an exception to the regular work schedule. An employee should only be required to work overtime on an occasional basis to meet a sudden increase in the workload, to overcome productive time lost due to some mechanical failure, or to meet the demands of a crisis situation. All overtime must be approved in advance by the appropriate supervisor or manager. Unauthorized overtime may result in disciplinary action.

The appropriate management will review when any office and/or individual is found to be consistently charging overtime. Every attempt should be made to avoid the repetitive and chronic use of overtime.

It shall be the responsibility of each supervisor to determine that the provisions of this policy are administered in the best interest of the agency. Although each supervisor is responsible for the requesting of overtime, it is equally important to control unauthorized overtime. Unauthorized work shall be counted as hours worked if the responsible supervisor/manager could have stopped the overtime but did not, or if management knows or has reason to know of this practice.

EXEMPT/NONEXEMPT STATUS UNDER THE FAIR LABOR STANDARDS ACT

Exemptions from both the minimum wage and overtime pay requirements of the Fair Labor Standards Act (FLSA) for any employee in a bona fide executive, administrative, or professional position shall be determined by the Human Resources Director or his/her designee. All other employees shall be nonexempt. Each office will be advised of those determinations which apply to its employees.

MINIMUM WAGE

All nonexempt employees must be paid not less than the current minimum wage.

COMPENSATION

Compensation of all employees is based on forty (40) hours per week or 2,080 hours per year. For employees subject to the fire protection partial exemption, compensation is for up to, and including, 212 hours in a 28-day work period. No additional compensation is due until the employee exceeds forty (40) hours per week or 212 hours in a 28-day work period, respectively.

THE WORKWEEK/WORK PERIOD

The normal workweek for most full-time employees of the agency is 37.5 hours. However, employees shall not receive additional compensation for hours worked between 37.5 and 40.0 hours per workweek. Employees shall not receive compensatory time for hours worked between 37.5 and 40.0 hours per week. The agency also has full-time employees whose normal workweek is 39 hours. Each section shall be advised of any eligible additional compensation or time, which applies to its employees. The agency has full-time employees whose normal workweek is 40 hours. Employees, who are subject to the firefighter special provision, have a 212 hour/28 day work period.

For record keeping purposes, the workweek begins at 12:01 am on Saturday and ends at 12:00 midnight on Friday. Any employee may be required to work up to forty (40) hours per workweek without additional compensation. For employees in positions subject to the firefighter special provision, the work period begins at 12:01 am Saturday and ends at 12:00 midnight four (4) weeks later. Each section shall be advised of the specific dates for the 28-day periods.

HOURS WORKED

Hours worked include all time that the employee is required to be on duty or at the prescribed workplace and all time during which the employee is permitted to work. This includes any bona fide work which the employee performs on or away from the premises if the supervisor knows or has reason to believe that the work is being performed.

REGULAR RATE

The regular rate of pay includes all remuneration for employment paid to an employee to include base pay, longevities, and shift differentials.

HOURLY RATE EMPLOYEES

The hourly rate is the "regular rate" for hourly employees. This rate is calculated by dividing the annual salary by 2080 hours. Hourly employees shall be compensated for all hours worked. Because only salaried employees can be exempt, all employees compensated on hourly rate basis must be classified as nonexempt.

HOLIDAYS

A nonexempt employee who is required to work on a legal holiday shall be given compensatory holiday leave credits in accordance with Section 19-708.03 of the State Human Resources Regulations; however, time worked on a legal holiday shall be used in computing total hours worked.

OVERTIME/COMPENSATORY TIME MAY NOT BE WAIVED (OFF THE RECORD ADJUSTMENTS)

The requirements that overtime pay must be paid or compensatory time granted to nonexempt employees after 40 hours of work in a workweek or after 212 hours of work in a 28-day work period for employees in positions subject to the firefighter special provision, shall not be waived by agreement between the supervisor and the employee.

ADJUSTED WORKWEEK/WORK PERIOD

Under warranted circumstances, a nonexempt employee may be allowed to work in excess of the normal workday and may be given time off during the same workweek at the rate of an hour for an hour to avoid working over 40 hours in a workweek. This adjustment is not allowed for hours worked between 37.5 and 40.0 during any workweek. This type of work rescheduling precludes working over 40.0 hours in a workweek and eliminates the need for overtime payment. In addition, a nonexempt employee working under the firefighter special provision may be allowed to work in excess of the normal workday and given time off during the same work period at the rate of an hour for hour to avoid working over 212 hours in a work period.

EXEMPT EMPLOYEES

Exempt employees may receive compensatory time off for hours worked in exceptional situations, in excess of the normal workweek (40 hours per week). If granted, it must not be at a rate greater than one (1) hour compensatory time for each hour worked in excess of 40 hours in the official workweek and may be at a lesser rate. Exempt employees must not be paid for overtime. (The intent of this provision is not to grant hour-for-hour compensatory time for all hours worked over forty (40) hours in a workweek. Agency management has discretion for approval of hour-for-hour compensatory hours; however, consistency in practice should be maintained.)

HOLIDAY/EXEMPT EMPLOYEES

An exempt employee who is required to work on a legal holiday shall be given compensatory leave credits in accordance with Section 19-708.03 of the State Human Resources Regulations.

ON CALL

If an employee who is on-call is not confined to his or her home or any particular place or is not so restricted that the employee can use the time effectively for his or her own purposes, but is required only to leave word where he or she can be reached, the hours spent on-call are not regarded as working hours.

MEAL PERIODS

A bona fide meal period of thirty (30) minutes or more which occurs during the scheduled workday is not hours worked if the employee is completely relieved from duty for the purpose of eating a meal. Normally, the meal period (lunch period) is one (1) hour each workday.

REST PERIODS

Rest periods or "coffee breaks" of short duration must be counted as hours worked. One morning and one afternoon "coffee break" of no more than fifteen (15) minutes each is permitted. Breaks shall not be used to allow an employee to come in late, to leave early, or to extend the lunch period. Breaks are a privilege and are not required by law.

LEAVE STATUS

Time spent in leave status is not considered hours worked.

IMPACT OF STATUS CHANGE

If a non-exempt employee accepts a position that is considered exempt either within their own agency or with a separate state agency, compensatory time must be paid out prior to the employee starting in the exempt position.

TRAVEL TIME (NONEXEMPT)

Travel time for nonexempt employees may be hours worked under some conditions. Ordinary home-to-work travel or vice versa is not working time. All time spent traveling on one-day assignments is considered time worked regardless of time of day or day of the week.

Travel away from home involving an overnight stay for nonexempt employees is "travel away from home." Travel away from home is clearly work time when it cuts across the employee's workday, as the employee is substituting travel for other duties. This provision is applicable not only on regular working days, but also during the corresponding hours of non-working days. An employee who is required to drive an automobile or is required to ride therein as an assistant or helper is considered to be working except during meal periods or during sleep periods.

LECTURES, MEETINGS, AND TRAINING EMPLOYEES (NONEXEMPT)

When a nonexempt employee by reason of official responsibilities is required to attend lectures, meetings, training programs, etc., such time shall be considered work time.

OVERTIME PAY (NONEXEMPT)

A nonexempt employee shall be paid no less than one and one-half (1 ½) times his/her regular rate of pay for all hours worked over 40 in a workweek or granted compensatory time at a rate of one-half (1 ½) hours for each hour of overtime worked. Nonexempt employees shall not receive additional compensation or compensatory time for hours worked between 37.5 and 40.0 hours per workweek.

Employees in nonexempt positions that are subject to the 28-day/212-hour special provision for firefighters shall either be paid for overtime hours worked in excess of 212 hours worked in a 28-day work period, or at the option of the South Carolina Forestry Commission, shall be credited with compensatory leave. If paid, the overtime compensation shall be included in the next available paycheck after the overtime is earned. Since employees on the 28-day overtime period are guaranteed to have 212 hours of work available to them in the 28-day period, their hourly rates for overtime purposes are found by dividing their regular pay for twenty-eight (28) days (4 weeks) by 212 hours. Their pay for twenty-eight (28) days is found by dividing their annual salaries by thirteen (13) because there are thirteen-28-day periods in a year. When such employees work more than 212 hours in the 28-day period, they will be paid one and a half (1 1/2) their hourly rates for each such hour. With the advance written approval of the State Forester, such employees may be given compensatory time at the rate of one and one half (1 1/2) hours for each overtime hour worked in lieu of cash overtime. The maximum number of hours of compensatory time that may accrue by employees subject to the 28-day, 212 hour provision is 480. Non-exempt employees in positions subject to the 28-day firefighter special provision shall not receive additional compensation or compensatory time for hours worked between 160 and 212 hours per 28 day work period.

South Carolina Forestry Commission

OVERTIME

Overtime is all hours worked in excess of 40 in a seven (7) consecutive day work period or all hours worked in excess of 212 in a twenty eight (28) consecutive day work period.

SCHEDULING COMPENSATORY TIME

A nonexempt employee engaged in public safety work (i.e. firefighters) may not accumulate more than 480 hours of compensatory time. All other non-exempt employees may not accumulate more than 240 hours of compensatory time. Any overtime worked after the 240 hours of compensatory time is met, 480 hours for nonexempt employees engaged in public safety work, must be paid in the employee's next regular paycheck.

In the event nonexempt employees earn compensatory time, supervisors will work with the employees to schedule the time off as soon as possible. Compensatory time should be taken by the end of each fiscal year.