



**Office of Human Resources  
Standard Operating Procedure  
HR SOP #501**

**Subject:** Work Period, Work Time, Overtime and Compensatory Time

**Effective Date:** September 1, 2020

**Policy Statement:**

Managers and Supervisors will administer working hours, overtime, and compensatory time as set out in the rules, regulations, and procedures established in accordance with the Fair Labor Standards Act (FLSA), policies established jointly by the Governor's Office of Planning and Budget and the Department of Administrative Services – Human Resources Administration, the State Personnel Board Rules, and the Georgia Department of Natural Resources Standard Operating Procedures (SOP's).

The DNR HR Director designates all Department employees as exempt or nonexempt in accordance with the Fair Labor Standards Act (FLSA).

Employees cannot waive their rights to compensation under the Fair Labor Standards Act.

**Definitions:**

**Appointing Authority:** The Appointing Authority for the Department is the Commissioner (for EPD, the Director) in accordance with state law and the Rules of the State Personnel Board (SPB). SPB Rules permit the Appointing Authority to delegate certain responsibilities to others within the agency. For the purpose of this SOP, the term Appointing Authority refers to both the Commissioner/EPD Director and those to whom either of those individuals have delegated certain Appointing Authority responsibilities.

**Compensatory Time:** Compensatory time is allotted to compensate an employee for time worked or total time accrued beyond the established maximum for the work period. There are three distinctly different types of compensatory time:

1. FLSA compensatory time is earned when a nonexempt employee physically works hours and minutes in excess of the maximum hours in the designated work period. To earn FLSA compensatory time the hours and minutes must be physically worked. This compensatory time is earned at the rate of one and one-half times the hours and minutes physically worked over the maximum hours allowed for the work period. **NOTE:** Since time must be physically worked to earn FLSA compensatory time, it is not earned by the employee if paid leave, compensatory time off, or time off for a state holiday(s) causes the employee's work hours for the work period to exceed the work period maximum (typically 40).

2. State compensatory time for salaried exempt and nonexempt employees is earned when an employee's credited work hours and minutes, and observed State Holiday time total more than the scheduled number of hours in a work period. (e.g., An exempt or nonexempt employee who observes the 8 hour holiday (does not work on the holiday) works 34 hours in the holiday week. Thirty-four hours of work + 8 hours holiday = 42 hours in the work week. The employee earns 2 hours of State compensatory time.) State compensatory time is earned at the rate of one-for-one for hours/minutes that exceed the work period maximum. Exempt employees also earn state compensatory time for time physically worked in excess of the maximum in a work period.
3. Holiday Deferral (Holiday compensatory time) is earned when an eligible employee works for any hours and minutes on a day designated by the Governor as a state holiday or the holiday is the employee's regular day off. Holiday Deferral is earned at the rate of one-for-one for all time worked, up to 8 hours maximum per holiday.

Eligible Employee: Non-temporary, salaried employees who are regularly scheduled to work 20 hours a week or more, on a leave-earning position, and are not currently receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year under the Employees' Retirement System of Georgia.

Exempt Employees: Employees who are exempt from the FLSA minimum wage and overtime provisions. The job duties of exempt employees meet the tests for the Executive, Administrative, Professional, Computer, Highly Compensated or Other FLSA exemptions and therefore are not entitled to overtime for time worked in excess of the maximum number of hours in a specified work period.

Fair Labor Standards Act (FLSA): A United States law that establishes various labor regulations including minimum wage, overtime pay requirements, recordkeeping, and limitations on youth employment affecting employees in the private sector and in Federal, State, and local governments. See *Employee Rights under the Fair Labor Standards Act* (Attachment 5).

Holiday Deferral: Leave that may be earned hour for hour, up to a maximum of eight hours, by eligible employees who are required to physically work, or whose regular day off occurs, on a day proclaimed by the Governor as a state holiday.

Non-eligible Employees: All temporary employees, hourly employees, and active, salaried non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

Nonexempt Employees: Employees who are covered by the FLSA minimum wage, overtime and recordkeeping provisions. Nonexempt employees are those who do not meet the FLSA exemption tests, and must be compensated, either by compensatory time or money, for time physically worked in excess of the maximum number of hours (typically 40) in a specified work period.

**Observed Holiday:** A state holiday, as designated by the Governor, in which an eligible employee does not report to work and/or performs no assigned responsibilities or duties during the 24-hour time frame for that calendar day.

**Overtime:** Monetary payments or FLSA compensatory time received by employees for any time physically worked beyond the maximum permitted hours for a designated work period under FLSA. Overtime is calculated at the rate of one and one-half the regular rate of pay (or time for FLSA compensatory time) for every one hour/minute worked beyond the maximum. Time worked beyond the maximum for the work period will be rounded up or down to the nearest five minutes. Nonexempt salaried employees will typically be provided FLSA compensatory time in lieu of cash overtime. Exempt employees are **not** eligible for consideration for overtime compensation except in extremely unusual circumstances and only with the approval of the Commissioner, or for EPD, the Director, or their designee. DNR typically pays cash overtime only to non-salaried employees and to essential salaried employees who incur overtime in response to an emergency declared by the Governor.

**Regular Day Off (RDO):** Designated day(s) that an employee is not scheduled to report to work within a work period. For example, for employees who are on a 4-10 schedule (four 10-hour days) with every Monday off, Monday would be considered their regular off day.

**Schedule Adjustment:** A tool used by managers to adjust an employee's work time within a work period by directing the employee not to work to ensure that the employee does not work in excess of the maximum number of hours for that work period.

**Work Period:** An established and regularly recurring period of work which, under FLSA, cannot be less than 7 consecutive days or more than 28 consecutive days. The standard work period for the Department is 12:01 AM, Saturday to midnight, Friday. The work period for Law Enforcement employees may be designated from 7 to 28 calendar days.

## **Procedure:**

### **FLSA Status Determination/Designations:**

Each position in DNR is assigned an exempt or nonexempt FLSA status. FLSA status of each position in the Department is determined by the DNR HR Director in accordance with the FLSA criteria and based on the duties and responsibilities assigned to the position.

If a Division Director considers that the duties of a particular position warrants a change in FLSA designation, a written request should be forwarded to the Office of Human Resources (OHR) for analysis. Requests must have supporting documentation indicating duties of the position (e.g., an updated Performance Management Plan), an organization chart and a FLSA change request memo. The FLSA status decision of the DNR HR Director is final.

Managers and supervisors must maintain knowledge of each subordinate's FLSA status in order to ensure compliance with Federal and State laws and regulations. Division HR Representatives can review the FLSA status of an encumbered position by using the following steps:

- Access TeamWorks (PeopleSoft) at; <https://hcm.teamworks.georgia.gov/>

- Sign in and select Main Menu > Workforce Administration > Job Information > Job Data; Enter the applicable employee ID;
- Go to the Job Information tab; and
- Click on the USA flag located near the bottom of the Job Information panel.

### Work Periods:

The standard FLSA work period for most employees is a fixed period of 7 consecutive calendar days that do not need to coincide with the calendar week and may begin on any day and at any time. Law Enforcement work periods may have a fixed work period of up to 28 calendar days. All employees are expected to adhere to the 40-hour work week schedule with the exception of an authorized alternative work week schedule. Each employee is to be assigned to a Department-approved work period as reflected on their timesheet. Supervisors are to enforce work period compliance.

Work periods for Non-Law Enforcement and Law Enforcement employees are as follows.

#### Non-Law Enforcement Employees:

- The Department's standard work period starts at 12:01 AM on Saturday, and ends at 12:00 AM (midnight) the following Friday. The Department's standard work day is 8:00 to 4:30 with employees having a 30-minute unpaid meal period during the work day. Work hours each day are assigned by the supervisor.
- Division Directors may request work periods with starting and ending days different than Saturday to Friday by submitting a request outlining the proposed work period to the DNR HR Director. The DNR HR Director will review the request to ensure it adheres to appropriate regulations.
- Changes to an employee's established work period must be intended to be permanent and not for the purpose of avoiding the accrual of compensatory time.
- Full time employees must work or take paid leave/compensatory time or Holiday Deferral for a minimum of 40 hours in each 7-day work period in order to receive full compensation.
- Eligibility for FLSA compensatory time is based on nonexempt employees exceeding the maximum number of hours for the established work period (40). Both nonexempt and exempt employees are eligible to earn state compensatory time in certain circumstances.

#### Law Enforcement Employees:

- The work periods for law enforcement employees may be established for any period between 7 and 28 days (43 hours to 171 hours, respectively).
- The LED Division Director may request work period changes by submitting a request outlining the proposed work period to the DNR HR Director. The DNR HR Director will review the request to ensure it adheres to appropriate regulations.

- Changes to an employee’s established work period must be intended to be permanent and not for the purpose of avoiding the accrual of compensatory time.
- The following chart outlines the maximum hours for law enforcement employees for each work period. Law enforcement employees are entitled to compensatory time or overtime compensation depending on FLSA exemption status for any hours and minutes over the maximum hours listed for the specific schedule. Eligibility for FLSA compensatory time is based on nonexempt employees exceeding the maximum number of hours for the established work period. Both nonexempt and exempt law enforcement employees are eligible to earn state compensatory time for time worked between the standard work period (160 hours) and the law enforcement work period (171 hours).

<b>MAXIMUM HOURS WORKED (ROUNDED) BEFORE OVERTIME</b>	
<b>Consecutive-Day Work Period</b>	<b>Hours of Law Enforcement</b>
28	171
27	165
26	159
25	153
24	147
23	141
22	134
21	128
20	122
19	116
18	110
17	104
16	98
15	92
14	86
13	79
12	73
11	67
10	61
9	55
8	49
7	43

- Any work period or partial work period (i.e., changing work period during mid-schedule) having less than 7 days will have the maximum number of hours established under the following schedule: (1 work day = 8 hours, 36 minutes; 2 work days = 16 hours, 51 minutes; 3 work days = 25 hours, 17 minutes; 4 work days = 33 hours, 42 minutes; 5 work days = 43 hours). Coordinate directly with OHR to calculate compensatory time due for any employee who has worked a partial work period of less than 7 days.

- Law enforcement employees, through work or combination of work, paid leave, holidays, and other management-approved leaves of absence, should meet scheduled hours for every work period. When paid leave (Annual, Sick, or Personal, Holiday Deferral, or FLSA Comp) is charged for approved absences, the leave will be for the amount of the normal duty day (typically 8 hours). It is permitted to retroactively restore paid leave (when employees' time accumulations are in between the work period minimum hours and work period maximum hours) back to the established scheduled work hours for the assigned work period.

### Work Time:

The workweek ordinarily includes all time employees are required to be on duty at prescribed work places, and all time during which employees are permitted to work. Employees are required to report all work time. All time worked must be recorded and counted as work time. Under FLSA, work not requested but permitted counts as work time.

### Meal Periods:

Meal periods away from assigned work stations do not count as work time. However, for a meal period to be non-work time, it must be at least 30 minutes, and the employee must not perform any work. Nonexempt employees are not allowed to occupy their work station during meal periods and the meal period is to be uninterrupted and unrestricted.

### Break Time:

It is DNR's practice that when workload allows, supervisors should allow up to two 'breaks' each lasting 15 minutes or less per work day. These breaks are compensated as work time, are a privilege and not a right, and are not a mandatory requirement. State policy mandates that the supervisor may not allow an employee to lengthen a meal period, report to work late, or depart early in exchange for not taking or 'working through' a break.

Employees who are nursing mothers must be provided reasonable break time to express breast milk for their nursing child each time the employee has a need to express milk. As the frequency and duration of breaks may vary the employee must request break time, discuss it with the supervisor and agree on the amount of time required so that adequate time may be provided based on the needs of the nursing mother. The break time for expressing milk is paid at the employee's regular rate of compensation. Employees must be provided a place, other than a bathroom that is shielded from view and free from intrusion from coworkers and the public which may be used to express milk. Break time to express milk is not provided on any day the employee is teleworking.

### Interviewing Time:

Time spent by a current salaried DNR employee interviewing for another position within DNR is considered work time and should be recorded on the timesheet as work time. Reasonable travel time to and from the interview is also considered work time. A DNR employee is expected to use their accrued leave or leave without pay for job interviews with any other agency or potential employer. Time spent by non-salaried (hourly) employees interviewing for positions that are in the same physical location will be considered work time.

### Training Time:

Time spent by employees attending officially sanctioned training must be recorded on the timesheet as work time.

Time spent at training is not work time if the training is unsanctioned or unapproved, not related to the employee's work and no work related to the job is performed during the training. For training requiring overnight lodging and/or study time, such time is not work time and must not be listed or counted on the employee's timesheet.

Employees who attend training will receive work time credits equaling those hours and minutes as regularly scheduled at the work location, provided it is a full day of training; e.g., an employee who works four 10-hour days will receive work time credit on the actual full day of training for his regularly scheduled work day of 10 hours. In this scenario, 10 hours worked should be recorded and '10 hours training' should be indicated in the 'Comments' section of the timesheet.

If travel time from the official worksite and full-day training time exceed the regular, daily scheduled work time, the employee must make a daily entry on the timesheet to record actual hours and minutes in the training class or training exercise, including accurate listings of meal breaks. If time worked including training time causes the employee to exceed the maximum hours for the work period, compensatory time will be awarded.

### On-Call Time:

An employee, who is required to remain on-call on the employer's premises or close to the premises so that he cannot use the time effectively for his own purposes, is working while 'on-call'. An employee, who is not required to remain on the employer's premises but is merely required to leave word at his home or with company officials where he may be reached, is not working while on-call. Typically those required to remain on-call or on stand-by status for emergency situations but whose time is not unduly restricted are not eligible to be compensated. Additional constraints on the employee's freedom could require this time to be compensated.

**NOTE:** Employees who live on department property are not eligible for compensation during their off-duty time.

### Travel Time:

To ensure accurate recording of work time on the timesheet, an official work site location must be assigned to each employee for purposes of establishing normal commute time. In certain situations, the work site may be designated as the employee's home.

### Home to Work Travel:

Travel from home before the workday and returning to home at the end of the workday is not work time. Travel from home or an out-of-town lodging to the work site and back home or the lodging (normal commute time) does not count as work time. This is the case whether an employee works at a fixed location or at different job sites. Normal commute time must not be counted as work time for employees who have job assignments and/or field assignments at various locations requiring regular and/or daily travel and no mandatory requirements to first report to their assigned official work site locations. However, if the employee's first work-related

duty occurs during this normal commute time then work time begins when the first work-related duty is performed. For example:

- Travel between the employee's home and a location where a change in mode of transportation is made (i.e., home to and/or from airport, home to and/or from location where state vehicle is parked) is excluded from work time but work time begins when that other mode of transportation is used.
- If an employee is required to report to a specified location to pick up materials, equipment, other employees, or to receive instructions before traveling to the work site, the work time starts at the time the employee gets to that specified location.

#### Home to Work Travel – (Travel for a one-day assignment in another city):

An employee who is assigned to work in another city for one day (does not spend the night) counts all travel time (except time taken for meal breaks) as work time. For purposes of this provision, Metropolitan Atlanta is considered one city.

#### Travel That is All in a Day's Work:

Travel as part of an employee's principal activity, such as travel from one job site to another during the work day, is work time.

#### Out-of-State Travel:

An employee who is assigned to out-of-state duty that involves lodging (i.e., as an operator of a vehicle or passenger) may count all travel time as work time (except time taken for meal breaks).

**NOTE:** In this area, in-travel status involving lodging, the Department chooses to exceed the FLSA required minimums for computing work time involving overnight travel. The Department reserves the right, on certain occasions, to adhere to FLSA minimums. Appropriate notice will be given to employees when this situation exists.

#### Methods of Compensation:

FLSA does not limit the number of hours that an employee may work. It simply requires that overtime compensation for nonexempt employees must be granted at a rate of not less than one and one half times the regular rate for each hour physically worked in excess of the maximum hours in the work period.

FLSA does not require that an employee be granted one and one half times compensation for hours worked in excess of eight hours per day, or for work on holidays, or on scheduled off days, provided the maximum number of hours for the work period is not exceeded.

Employees who are due extra compensation when their total hours for their work period exceed the maximum number of hours allowed, should be compensated by one of the following methods:

#### Schedule Adjustment:

A supervisor may make a schedule adjustment by excusing the employee for a work day or portion of a work day as strategy for managing and controlling the employee's hours and minutes worked in relation to the established maximum hours for the designated work period. Schedule



adjusting can be used to keep a nonexempt employee from earning compensatory time by limiting the hours worked to the maximum hours for the work period, or less.

#### FLSA Compensatory Time:

Awarding FLSA compensatory time at one and one-half times the hours and minutes for the additional time when an eligible nonexempt employee physically works more than the maximum number of hours specified for the work period is required (typically 40). Nonexempt law enforcement employees who have been assigned a work period of 28 days are entitled to FLSA compensatory time after working 171 hours.

At the time of hire, all employees must sign the *Understanding Concerning the Use of FLSA Compensatory Time* (Attachment 1) acknowledging that FLSA compensatory time or monetary payment may be used. The *Understanding Concerning the Use of FLSA Compensatory Time* is located in the DNR hire package. All individuals who were employed by the State on, or prior to April 15, 1986, and have been continuously employed since that date, are considered to have agreed to the use of FLSA compensatory time as a condition of employment.

Reporting of FLSA compensatory time earned is accomplished via the *FLSA Compensatory Time Reporting Form* (Attachment 2). This form and the applicable time sheet must be submitted to OHR for verification and entry into TeamWorks.

Non-law enforcement employees may earn a maximum of 240 hours of FLSA compensatory time. Law enforcement employees may earn a maximum of 480 hours of FLSA compensatory time. Any overtime earned over the maximum is to be compensated by monetary award.

When transferring to another agency and if agreeable to the gaining agency, this may be accomplished, by delaying the effective date of transfer to the gaining agency until the FLSA balance is zero, instead of payment. When FLSA compensatory time cannot be brought to a zero balance, payment must be made to the employee prior to the transfer.

Accumulated FLSA compensatory time must be paid upon separation of an employee from DNR.

#### State Compensatory Time:

Exempt employees earn State compensatory time as straight time (one-for-one) credit for hours physically worked in excess of 40 hours in a standard work period. State compensatory time for salaried exempt and nonexempt employees is earned when an employee's credited work hours and minutes, and observed State Holiday time total more than the scheduled number of hours in a work period. An eligible employee may not accumulate more than 240 hours of State compensatory time. In the event that an employee terminates employment or is transferred to another state agency, all accumulated State compensatory time is lost. Accumulated State compensatory time will not be 'paid out' to any employee under any circumstances.

Georgia Compensatory time is not to be used to extend the service of employees who are leaving DNR employment. Managers must not allow employees to use their Georgia Compensatory Time balance at the end of their tenure with the agency. Exceptions are as follows:

- Employees who resign are expected to work a two-week notice. Managers may approve an employee to use Georgia Compensatory time if more than a two week notice of

resignation is given. However, Georgia Compensatory Time is not to be approved during the last two weeks of employment.

- Employees who are retiring and make a request to their supervisor in advance of their retirement date to use all or some of their Georgia Compensatory Time balance at the end of their tenure.

#### Monetary Payment of Overtime:

Upon approval by the Office of Planning and Budget, monetary payments of overtime may be made to nonexempt employees at the rate of one and one half the rate of pay for every hour worked beyond the maximum for the work period to an employee when he/she physically works more than the maximum number of hours (40) for the work period. Overtime earned must be reflected on the employee's timesheet for the work period and is requested by completing and forwarding the *Overtime Payment Request* (Attachment 4) to OHR. Exempt employees are **not** eligible for overtime except in very unusual circumstances and only with the approval of the Commissioner or EPD Division Director for EPD, or their designee.

#### Holiday Deferral:

Holiday Deferral (Holiday compensatory time) is earned by exempt and nonexempt employees at a rate of one for one for all hours/minutes an eligible employee works on a holiday or when their regular off day occurs, on the day designated by the Governor as a state holiday.

Eligible employees who work on paid holidays:

- Must be given equivalent time off (Holiday Deferral), for time worked, not to exceed eight hours; and
- Shall be provided that equivalent time off within 365 days after the holiday.

If Holiday Deferral is earned, it must be entered into TeamWorks as Holiday Deferral earned, unless taken after the holiday, but within, the same workweek it is earned.

Reporting of Holiday Deferral earned is accomplished using the *Holiday Deferral Reporting Form* (Attachment 3). This form and the applicable timesheets must be submitted to OHR for verification and entry. **NOTE:** Submission of the *Holiday Deferral Reporting Form* is not required for POST Certified Law Enforcement Division employees who earn Holiday Deferral.

A full-time salaried employee is eligible for a paid holiday if the employee is in pay status for the full scheduled work shift on the scheduled workday before or after the holiday. Holiday credit will not be given:

- To an individual entering or reentering state service the scheduled workday following the holiday;
- If the employee is separating from state service and the holiday occurs after the date of separation; or
- When the holiday would be the employee's last day of employment, unless the holiday is at the end of the employee's normal workweek.

- To temporary or hourly employees.
- To active, salaried, non-temporary employees who are rehired retirees with the Employee Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in a calendar year.

An employee scheduled to work on a holiday who fails to report for any portion of the scheduled duty, without prior approval, will not be granted additional compensation or time off for the holiday and may be subject to disciplinary action, up to and including termination of employment.

### Use of Compensatory Time and Holiday Deferral Time:

An employee must provide an accurately completed and approved *Employee Request for Leave* to request the use of compensatory time/Holiday Deferral.

Employees are to use accumulated Holiday Deferral and FLSA compensatory time in lieu of other paid leave to avoid any situations requiring monetary pay-outs.

Supervisors are to actively direct employees, who have accumulated FLSA compensatory time and/or Holiday Deferral, to schedule and take time off from work by using this compensatory time in lieu of annual or sick leave in order to reduce FLSA compensatory and Holiday Deferral balances, workload permitting.

State compensatory time may be used, with proper supervisory approval, in lieu of other types of authorized leave such as Annual, Sick, and Personal Leave.

The time approving manager should approve a request for FLSA compensatory time submitted by a nonexempt employee unless the employee's absence from work will unduly disrupt work unit activities. Mere inconvenience is not sufficient justification to deny a request for the use of accrued FLSA compensatory time. Such a request may be denied only if the employee's absence would unreasonably burden the operational capacity of a work unit or significantly impact the delivery of agency services to the public.

When a nonexempt employee is to leave the Department (dismissal, resignation or retirement), the supervisor should make every possible attempt to reduce the employee's FLSA compensatory time balances prior to the effective date of the departure. If the accumulated FLSA compensatory time cannot be eliminated, as a last resort payment must be made upon departure.

### Record Retention:

All FLSA records must be maintained for three full years. The *Understanding Concerning the Use of FLSA Compensatory Time* (Attachment 1) will be maintained in the employee's personnel file in the Office of Human Resources (OHR). *FLSA Compensatory Time Reporting Forms* (Attachment 2) and *Holiday Deferral Reporting Forms* (Attachment 3) will be maintained in a separate file in OHR. *Overtime Payment Requests* (Attachment 4) will be maintained by the agency Payroll unit.

### **Attachments:**

Attachment 1 – *Understanding Concerning the Use of FLSA Compensatory Time*

*Attachment 2 – FLSA Compensatory Time Reporting Form*

*Attachment 3 – Holiday Deferral Reporting Form*

*Attachment 4 – Overtime Payment Request*

*Attachment 5 – Employee Rights under the Fair Labor Standards Act*