

STATE OF COLORADO

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

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February 1, 2009

Bill Ritter, Jr.
Governor

Policy Title: Overtime

H. Michael Edwards
Major General
The Adjutant General

Effective Date: 01 February 2009

Summary: Provides Policy on Overtime

Applicability: All State Employees of DMVA

Staff Proponent: Human Resources

Supersedes: 01 March 2005

A. Purpose: To address who, when, and how overtime is accrued, computed, used, and paid for all State DMVA employees.

B. Background: Overtime rules are under the auspices of the Federal Fair Labor Standards Act (FLSA). All employees are covered under the FLSA. Exempt employees for this purpose are those who are not eligible for overtime. Non-exempt employees are eligible for overtime compensation. However all employees must submit leave slips for supervisory approval for time taken off work and complete monthly time sheets documenting time worked and time-off taken. Most administrative support, trades, and protective services job classes are non-exempt. Most, but not all, positions in the professional job group are exempt. If you have a question about the status of your position, please contact the State Human Resources office (720-250-1520).

C. Definitions: Overtime is that time a **non-exempt** employee is directed or permitted to work in excess of the 40 hours during a standard work week. No extra pay shall be granted to **exempt** employees for hours in excess of 40 hours in a work week. Time off shall not be granted except that an appointing authority may grant discretionary administrative leave in unusual situations in amounts less than the extra hours worked.

D. Policy: The following are the parameters governing overtime:

- Under DMVA’s policy, any eligible non-exempt employee who incurs overtime agrees to accept compensatory time off in lieu of cash payment, unless the Supervisor approves otherwise or the employee is employed in a temporary assignment or as force protection.
- All compensatory time may not exceed 240 hours. Any compensatory time exceeding 240 hours will be paid for those hours on the next regular payroll of the employee and the salary will be charged to the supervisor/department account.
- Employees who terminate employment with DMVA and who have compensatory time accrued will be paid in cash on their final payroll.
- A non-exempt employee may not waive the right to overtime compensation and/or compensatory time under the FLSA.
- Overtime does not accrue until a non-exempt employee works more than the maximum hours allowed in the work week or designated work period.
- Time worked must be recorded in 15-minute units (rounded to the nearest quarter hour). An employee shall not be required to start early or leave late by less than seven and one half minutes in order to avoid paying for the 15-minute time increment. Any time more than seven and a half minutes is to be rounded *up* to 15 minutes.
- Leave may be denied or canceled in order to minimize overtime liability. Appointing authorities (supervisors) may require the use of accrued compensatory time. Compensatory time is not leave. All time permitted to be worked must be counted toward 40 hours. Any time more than seven and a half minutes is to be rounded *up* to 15 minutes.
- When calculating compensatory time (or overtime pay if applicable) for **non-essential, non-exempt** employees, ONLY the hours actually worked will be taken into account. The hours taken as paid leave (sick, annual, admin, funeral, holiday, etc.) will NOT be included in the weekly total for overtime purposes. That is, the hours over 40 would be taken or paid at the normal rate of pay, NOT as time and a half.
- When calculating compensatory time (or overtime pay if applicable) for **essential non-exempt** employees, all hours shall have paid leave counted as work time. Positions designated as essential (see list below) will count authorized paid leave (including holidays) for purposes of determining overtime. Essential positions are those positions required to be on duty to perform the essential and/or emergency services of the Department without delay and/or without interruption. An employee receives compensation for all time worked or taken in the week, but only time actually worked and “paid leave” will be at time and a half for hours over forty (40). Any *compensatory* time used will be calculated as straight time, not as “overtime” (time and a half) because compensatory time is not considered “paid leave.”
- The following positions are determined to be essential positions:
 - Air National Guard Patrol Officers
 - Air Traffic Controllers
 - Transportation Maintenance Workers limited to essential designation for performance of snow removal. When snow removal is the cause of overtime in any given work week, for that week only, the position will be considered essential for purposes of overtime calculations.
- Non-exempt employees must receive permission from their supervisor prior to incurring any overtime hours. If unapproved overtime hours occur, the employee will receive

compensatory time and may be subject to verbal counseling, corrective action, and/or disciplinary action.

- Supervisors may not allow an employee to “volunteer” their time. Supervisors must document all known hours an employee works on behalf of the department on employee timesheets. Supervisors who allow an employee to accrue extensive amounts of overtime which creates a Department budget liability will be subject to verbal counseling, corrective action, and/or disciplinary action. The Deputy Executive Director will be informed whenever an employee accumulates more than 40 hours of overtime.
- Overtime issues that arise must be discussed with the State Human Resource Director. If the employee is not satisfied, they may initiate the grievance process. If that does not satisfy employee concerns, the employee then may file an appeal through the State Personnel Director.

Official:

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H. Michael Edwards
The Adjutant General

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