

## DHHS POLICIES AND PROCEDURES

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<b>Section V:</b>	<b>Human Resources</b>
<b>Title:</b>	<b>Classification/Compensation</b>
<b>Chapter:</b>	<b>Compensatory Leave</b>
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### **Purpose**

The purpose of this policy is to establish procedures for providing compensatory leave for employees subject to and exempt from the provisions of the Fair Labor Standards Act (FLSA). This policy also establishes procedures for employees who work for the Department of Health and Human Services (DHHS) emergency hotline [*see item 6 under FLSA Exempt Employee Provisions*]. For additional information, see the Office of State Human Resource's (OSHR) [Hours of Work and Overtime Compensation](#) policy.

### **Policy**

The department's gap hour compensatory policy for FLSA subject employees is the accrual of compensatory time unless an exception has been authorized by the DHHS Division of Human Resources' Classification and Compensation Section and approved by the Office of State Human Resources to pay for gap hours worked.

For FLSA exempt employees with appointment types of permanent full-time or permanent part-time (half time or more) who work in DHHS divisions and offices, the maximum accumulation of compensatory leave at the end of any pay period shall not exceed 80 hours (pro-rated for part-time employees). The DHHS Secretary may grant an exemption to the 80 hour limit based on extraordinary work requirements.

DHHS schools and facilities are not limited to 80 hours and may have a different policy for FLSA exempt employees, subject to the approval of the respective division director. Any alternate policy must comply with DHHS and State Personnel policy. Alternate policies shall be filed with the Division of Human Resources' Classification and Compensation Section.

Federal and state overtime and compensatory time rules apply to all DHHS FLSA subject employees. FLSA subject employees in temporary appointments shall not accrue compensatory time and are paid for all hours worked.

All employees shall sign the DHHS "[Compensatory Time, Overtime and On-Call Agreement](#)" acknowledgment form upon initial employment or transfer to DHHS.

## General Provisions

- A. Compensatory leave for FLSA exempt employees is a privilege rather than a right and shall be administered accordingly. It is the department's intention to recognize extraordinary efforts by allowing employees to earn compensatory time. It is not the intention of the department to provide compensatory time for routine efforts that could or should be handled as part of an FLSA exempt employee's regular job.
- B. Prior approval by an immediate supervisor shall be given before compensatory time may be earned and compensatory leave can be taken. The supervisor shall consider the business need of the program and/or unit as well as the employee before granting approval to accrue or take compensatory leave. Documentation is required for all compensatory leave requested, accrued and taken and shall be appropriately recorded and approved in the BEACON timekeeping system or via direct time entry by an approved BEACON leave administrator or timekeeper. Any deviation from an employee's normal work schedule shall be approved by the immediate supervisor.
- C. For DHHS divisions and offices, the workweek begins 12:00 a.m. Sunday and ends 11:59 p.m. Saturday. For facilities and schools, the establishment of the beginning and ending days and times of a workweek is at the discretion of the respective division director. A change to an existing workweek shall be directed in writing to the Division of Human Resources' Classification and Compensation Section for review and consideration to ensure appropriate migration to the BEACON system and to ensure that applicable state and federal laws are followed.
- D. Separation:
  - 1. An employee's separation date cannot be scheduled in order to allow an employee to exhaust unused compensatory time regardless of the FLSA designation.
  - 2. For FLSA subject employees, any compensatory leave balance remaining when an employee separates from the department shall be paid.
- E. The BEACON payroll system uses accrued compensatory time (including gap hours) to offset leave liabilities such as adverse weather, paid leave (i.e., vacation and sick) or other management approved leave.
- F. The BEACON payroll system automatically date stamps and ages all compensatory time as it is entered into employees' time records for both FLSA exempt and subject employees. FLSA subject employees may be coded in BEACON for the immediate payout of compensatory time based on the DHHS gap hour policy and/or local compensatory time policy. For FLSA exempt employees or FLSA subject employees

who are not coded for immediate payout, accrued compensatory time is managed according to the following BEACON protocol:

1. For FLSA subject employees, unpaid compensatory time accrued over 240 hours or compensatory time not taken within 12 months from the date earned, whichever comes first, shall be paid in the employee's next regular paycheck. Gap compensatory hours not taken within 12 months from the date earned shall be paid. There is no limit to the number of gap compensatory hours that can be accumulated.
2. For FLSA exempt employees, unused compensatory time is reduced in BEACON 12 months from the date earned.

G. Compensatory leave may not be converted to vacation or sick leave.

## **Implementation**

### Permanent Full-Time and Permanent Part-Time Employees Subject to FLSA:

- A. Compensatory time accrued hour-for-hour (gap hours) occurs when:
1. A permanent part-time employee's actual time worked in an established workweek exceeds his/her regular work schedule, but actual time worked is less than 40. For example, an employee with an appointment type of half time (20 hours per week) earns five (5) hours of hour-for-hour compensatory time when s/he works 25 hours in a workweek.
  2. A permanent full-time employee's actual time worked exceeds his/her regularly scheduled hours in a workweek, but actual time worked is less than 40 due to a holiday, civil or other management approved leave.
- B. The accrual or payment of compensatory time hour-for-hour (gap hours) should not be confused with the required payment of overtime or compensatory time at time and one-half when actual hours worked exceed 40 in an established workweek, excluding holidays or other leave. A workweek is a period of 168 consecutive hours unless an alternate schedule has received prior approval from the Division of Human Resources' Classification and Compensation Section. The payment of overtime and compensatory time for hours worked over 40 for FLSA subject employees is governed by State Personnel's [Hours of Work and Overtime Compensation](#) policy, which requires that:
1. FLSA subject employees shall earn gap compensatory time on an hour-for-hour basis when actual time worked does not exceed 40 hours in a workweek. An

exception to pay for gap compensatory time requires prior approval (see above under “Policy”).

2. All FLSA subject employees shall earn compensatory time or pay at time and one-half when actual hours worked exceed 40 in a workweek, excluding holidays or other leave. The division, office, facility or school director has the discretion to allow the accrual of compensatory time or immediate payment of overtime less compensatory time that is used by BEACON to offset leave. Compensatory time accrued and taken shall be recorded in five minute increments.
3. 3. Transfers within and external to DHHS who have accrued compensatory time, including gap compensatory hours, shall be paid before the employee transfers to another DHHS division, office, facility or school or to another state agency or university.
4. 4. Work time that counts towards gap compensatory time or at time and one-half includes (a) work on a non-workday, (b) travel time to and from a work site other than the regular work site, (c) work performed during the meal period, (d) attendance at official government meetings, or (e) meetings in which the employee is representing DHHS or the state.
5. 5. Non-work time that does not count towards gap compensatory time or compensatory time includes (a) attendance at non-compulsory meetings such as professional associations, workshops, etc., (b) standby at home, or (c) normal commute from home to work.

Permanent Full-Time and Permanent Part-Time (half time or more) Employees Exempt from FLSA:

FLSA exempt employees with permanent full-time and permanent part-time appointments (half time or more) may earn compensatory time on an hour-for-hour basis according to the following provisions:

1. If approved by the supervisor, compensatory time shall start to accrue when an employee’s time worked exceeds his/her appointment type (i.e., permanent full-time or permanent part-time), less compensatory time that is offset in the BEACON system for leave liabilities, adverse weather, and other management approved leave. Compensatory time accrued and taken shall be recorded in five minute increments. (Note: Compensatory time worked in a week with a holiday is not credited in BEACON until actual hours worked exceed 40 for a permanent full-time employee or exceed the appointment type for a permanent part-time employee.)
2. Any unused compensatory time remaining when an employee separates from the department will be lost.

No employee whose position is designated as FLSA exempt shall be paid for compensatory time with exception to the [Governor's declaration of an emergency/natural disaster](#) or [communicable disease emergency](#).

3. Up to 80 hours of compensatory time may be transferred within DHHS.
4. Work time that may count towards compensatory time includes (a) work on a non-workday, (b) required work over and above the normal 40 hour workweek, including travel time to and from a work site other than the regular work site, (c) attendance at official government meetings, or (d) meetings in which the employee is representing DHHS or the state.
5. Non-work time that does not count towards compensatory time includes (a) attendance at non-compulsory meetings such as professional associations, workshops, etc., (b) standby at home, or (c) normal commute from home to work.
6. Compensatory Time Provision: Emergency Hotline Work

DHHS FLSA exempt employees who work on the Emergency Hotline for emergency/disaster relief or communicable disease outbreak may accrue compensatory time for actual hours worked beyond the 80 hour limit. FLSA subject employees who work on the hotline shall earn compensatory time or pay based on the employee's appointment type.

Work on the Emergency Hotline is considered a change of duty station since it is conducted from the Administration Building or other work location. Hours that an employee works on the hotline are considered to be part of his/her regular work schedule and are thus eligible to accrue compensatory time or pay outlined above for FLSA subject and exempt employees, whichever is applicable. Each division, office, facility or school director may use the following options, keeping in mind the employee's regular work schedule, his/her primary duty and the number of hours worked in a 24-hour period, to determine how the employee's time will be administered. Below are the options for recording time worked on the Emergency Hotline.

Option 1 (Use accrued compensatory time at a later date): If the employee's time worked on the hotline exceeds his/her regularly established work schedule, s/he may earn compensatory time to be taken within the time frame required of this policy and in compliance with the employee's FLSA exemption. Any accrued compensatory time (or additional time worked) is subject to be offset in the BEACON timekeeping system.

Option 2 (Apply compensatory time to the next workday): If an employee's time worked on the hotline exceeds his/her regularly established work schedule, the compensatory time earned may be applied to his/her next workday. The entry of

compensatory time (or additional time worked) in the BEACON timekeeping system will apply compensatory hours towards the employee's regular workweek.

The employee shall timely inform his/her immediate supervisor when scheduled for hotline duty.

The employee is required to comply with sign-in procedures and appropriately record time worked on the hotline into the BEACON timekeeping system. The employee shall not work more than his/her allocated shift on the hotline unless there is a documented need to work additional hours.

*For questions or clarification on any of the information contained in this policy, please contact [Human Resources](#). For general questions about department-wide policies and procedures, contact the [DHHS Policy Coordinator](#).*