

GEORGIA DEPARTMENT OF JUVENILE JUSTICE	Transmittal # 16-09	Policy # 3.31
Applicability: <input checked="" type="checkbox"/> All Employees <input checked="" type="checkbox"/> Administration <input checked="" type="checkbox"/> Community Services <input checked="" type="checkbox"/> Secure Facilities (RYDCs and YDCs)	Related Standards & References: Fair Labor Standards Act of 1938, as amended Office of Planning and Budget/State Personnel Administration: Rules, Regulations and Procedures Governing Working Hours, the Payment of Overtime and the Granting of Compensatory Time DJJ 3.33	
Chapter 3: PERSONNEL	Effective Date: 7/15/16 Scheduled Review Date: 7/15/17	
Subject: FAIR LABOR STANDARDS ACT	Replaces 4/15/12 <u>Office of Human Resources</u>	
Attachments: A – Time & Leave Keeping Guidelines	APPROVED:  <hr/> Avery D. Niles, Commissioner	

I. POLICY:

The Department of Juvenile Justice managers and employees shall comply with the Wage and Hour provisions of the Fair Labor Standards Act and Departmental time keeping procedures and practices.

II. DEFINITIONS:

Exempt Employee: An employee who is not covered by the overtime provisions of the Fair Labor Standards Act (FLSA).

Fair Labor Standards Act of 1938, as amended (FLSA): The federal law that regulates minimum wage rates, maximum work hours, overtime pay requirements, equal pay standards, child labor standards, and age discrimination restrictions for covered employers and employees.

FLSA Compensatory Time: Time credit earned by non-exempt employees at a rate of 1.5 hours for each hour worked over the established maximum work hours in a given work period for that employee.

Non-Exempt Employee: An employee who is covered by the overtime provisions of the Fair Labor Standards Act (FLSA).

Schedule Adjustment: The modification of an employee's schedule to allow pre-approved time off to avoid overtime accumulation or to accommodate other agency needs. Time off must be taken in the same work period in which additional time is worked.

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Work Time: All time that an employee is required to be on duty and all time during which an employee is “suffered or permitted” to work. Periods of leave and holidays are not considered hours worked for the purposes of determining overtime hours.

III. PROCEDURES:

- A. Each work unit manager will use the Time and Leave Keeping Guidelines (Attachment A) when calculating work hours, overtime, and compensatory time.
- B. Each DJJ location must post, and keep posted in a conspicuous place, a notice explaining the Fair Labor Standards Act to permit employees to read it easily.
- C. Exempt/Non-exempt Status of Employees:
 - 1. FLSA nonexempt employees will be subject to the overtime provisions of the Fair Labor Standards Act unless they are exempt in accordance with criteria specified by the act.
 - 2. The Director of Human Resources or designee will determine if employees are exempt based on assigned duties and responsibilities and other relevant factors. FLSA status will be determined based on individual assignments rather than job title.
 - 3. An employee may be exempt from FLSA if he/she meets the criteria specified by the law and regulations for the following categories of exemptions:
 - a) Administrative;
 - b) Executive; or
 - c) Professional.
 - 4. Exempt employees may lose their exempt status under certain circumstances. Any changes to assigned job duties and responsibilities of exempt employees, including those that are temporary, must be reported to the local personnel representative and staff of the Office of Human Resources to ensure that FLSA status is not impacted. The Director of Human Resources or designee must be consulted prior to the implementation of any proposed disciplinary suspension without pay of any exempt employee (see DJJ 3.80 Employee Progressive Discipline).
- D. Overtime Provisions for Non-exempt Employees:
 - 1. Non-exempt employees must, as a condition of employment, sign a waiver agreeing to receive FLSA compensatory time instead of cash payment for

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overtime worked. The waiver will be maintained in the employee's official personnel record.

2. Non-exempt employees on a 7-day work period will be compensated for overtime if they work more than 40 hours in a specified 7-day work period. Time spent in holiday and/or leave status will not be considered work time and will be excluded from the calculation of overtime.
3. Non-exempt employees in designated law enforcement positions will be compensated for overtime if they work more than the maximum number of hours in their established work period. Time spent in holiday and/or leave status will not be considered work time and will be excluded from the calculation of overtime. The count of workdays and off days (rotations as assigned) will be used to count the number of days in work periods from 7 to 28 days.
4. A non-exempt employee who is entitled to overtime compensation will receive compensatory time equivalent to 1½ hours for each hour of overtime worked. All compensatory time earnings must be entered into the employee's PeopleSoft record. The employee may later request or the supervisor/manager may direct the employee to use his/her accumulated FLSA compensatory time.
5. FLSA nonexempt employees will not use or take newly earned FLSA compensatory time prior to it being entered into PeopleSoft leave records. Violations of this procedure may result in disciplinary action up to and including termination.
6. Under certain circumstances, employees may be eligible to earn State compensatory time (see DJJ 3.33, State Compensatory Time).

E. Overtime Management:

1. All non-exempt employees must accurately record all time worked, meal periods, and leave taken on designated time sheets or with a time clock. Hours worked outside of scheduled work hours, including time spent on work-related phone calls must also be accurately reflected on the appropriate time sheet.
2. Falsification of time records, including the omission of time worked, will result in disciplinary action up to and including termination.
3. Supervisors must review employee time records and monitor time worked to ensure accuracy and to avoid unplanned overtime. Supervisors must

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sign the time sheets or electronically approve the time records covering every work period of the employees they supervise.

4. Supervisors may require non-exempt employees to adjust their schedules to avoid the accrual of overtime. A schedule adjustment outside the work period in which the additional work was performed is a violation of federal regulations and is prohibited. All pre-approved schedule adjustments must occur before the work period ends for both FLSA nonexempt and exempt employees.
5. Supervisors will obtain appropriate approval before allowing an employee to work overtime. Failure to obtain necessary approval may result in disciplinary action. Each facility/program/office Directors will delegate, in writing, the staff members in the managerial chain who may authorize overtime.
6. Supervisors may use discretion in authorizing overtime in extraordinary or emergency situations. Such situations should be thoroughly documented and should be reported to the next level supervisor as soon as possible.

F. Overtime Accumulation:

1. Non-exempt employees will earn 1½ hours of FLSA compensatory time for each overtime hour worked.
2. Non-exempt employees who are not in designated law enforcement positions (P.O.S.T. certified) may accumulate up to a maximum of 240 hours of FLSA compensatory time. Any amounts of FLSA compensatory time earned in excess of 240 hours must be paid as overtime pay. Entering more than 240 hours of FLSA compensatory time into the PeopleSoft system is a violation of federal regulation.
3. Non-exempt employees in certain designated law enforcement positions (P.O.S.T. certified) may accumulate up to 480 hours of FLSA Compensatory time. Any amounts of FLSA compensatory time earned in excess of 480 hours must be paid as overtime pay. Entering more than 480 hours of FLSA compensatory time into the PeopleSoft system is a violation of federal regulation.
4. Any overtime earned over the specified maximums above must be paid as cash overtime to the employee based on the applicable hourly rate for that employee. All cash overtime must be approved in advance by the Budget Director and the Director of Human Resources. All employees with high FLSA compensatory time balances must be closely tracked and monitored

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to prevent these employees from exceeding the maximum applicable thresholds.

G. Compensatory Time Use:

1. Non-exempt employees are required to use accrued FLSA compensatory time prior to using available annual leave, sick leave, or personal leave. A supervisor will require an employee to use available accrued FLSA compensatory time prior to using available annual leave.
2. Requests to use FLSA compensatory time will be processed in the same manner as annual, sick, and personal leave requests. Once used to cover pre-approved absences, FLSA compensatory time must be deducted from the employees' PeopleSoft balances in the same manner as any other leave deductions.
3. Supervisors must make every attempt to authorize an employee's request to use FLSA compensatory time, provided the employee's absence will not unduly disrupt the operations of the work unit.

H. Payment for FLSA Compensatory Time:

1. An employee will be paid for any accumulated and unused FLSA compensatory time upon separation of employment with the Department.
2. Employees receiving payment for accumulated and unused FLSA compensatory time will be paid at the final regular hourly rate of pay received by the employee.
3. The Department reserves the right to require the use of earned FLSA compensation time or pay-out the FLSA compensatory time balance of an employee at any time.

I. Record-keeping:

1. All employees must record, by time sheet or time management system, all hours worked each day and each work period. Falsification of time records and/or failure to accurately record hours worked will result in disciplinary action, up to and including dismissal.
2. All FLSA records must be kept for a minimum of 3 years.
3. Waivers signed by non-exempt employees agreeing to the receipt of FLSA compensatory time in lieu of overtime payment will be maintained in each

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employee's official personnel record for as long as the employee is employed by the Department.

- a) The following FLSA documents will be maintained at the local work site with other similar records;
- b) Written records of each employee's established work period;
- c) Time sheets and/or time clock documentation signed by both the employee and the supervisor; and
- d) FLSA compensatory time records, including the amount of FLSA compensatory time accrued by each non-exempt employee during each work period, the amount of FLSA compensatory time used in each work period by each employee, and the dollar amount and date of payments for accrued FLSA compensatory time.

4. Falsification of time records and/or failure to accurately record hours worked may result in disciplinary action up to and including dismissal and may also be subjected to criminal /civil liability.

J. Exempt Employees:

- 1. Exempt employees are entitled to earn State compensatory time for hours worked beyond regularly scheduled hours in accordance with DJJ 3.33, State Compensatory Time.
- 2. A supervisor, in his or her discretion, may adjust the work schedule of an exempt employee who has worked hours beyond those regularly scheduled.

IV. LOCAL OPERATING PROCEDURES REQUIRED: NO