

Adjusting, Controlling, and Compensating For Overtime Under The FLSA

Number: E-6

Revision:

Effective Date: 07-01-2014

1.0 POLICY

Work schedules can be adjusted, in some circumstances, to provide the flexibility needed to meet heavy workload or emergency situations without significant additional costs. This policy outlines departmental responsibilities in controlling or limiting overtime under the Fair Labor Standards Act (FLSA) and overtime payments.

2.0 PURPOSE

In keeping with the Town's core value of stewardship, the Town of Carolina Beach expects departments to deliver effective services to its citizens in as efficient a manner as reasonably possible. Departments should adjust schedules whenever possible to minimize overtime. When adjustment of schedules is not possible to avoid overtime, the Town expects departments to compensate employee with compensatory time rather than payment of overtime wages. Seasonally from April 1 through October 1 each year the occurrence of overtime may result in the payment of overtime wages.

3.0 SCOPE

This policy applies to Non-Exempt employees. FLSA exempt employees are not eligible for premium/overtime pay, including any compensation calculated at one and one-half times their regular rate of pay.

4.0 DEFINITIONS

- 4.1 **FLSA** - The Fair Labor Standards Act (FLSA) is a Federal law establishing the minimum wage rate, overtime pay, recordkeeping requirements, prohibiting gender based wage discrimination between men and women performing the same work, and child labor standards affecting full time and part-time workers in the private sector and in Federal, State, and local governments.
- 4.2 **Overtime** - All hours worked in excess 40 in a week or for sworn Police and Fire personnel, 168 and 212 hours respectively in a 28 day period (or a proportional amount in a lesser number of days).
- 4.3 **Work Week** - A regular work week is a fixed and regularly recurring period of 168 hours -- seven consecutive 24-hour periods designated as the official work week for each employee. Unless otherwise designated, this period will be from 12:01 am Monday through 12:00 am (midnight) Sunday.
- 4.4 **Non-Exempt Employee** - An employee who is subject to the minimum wage, overtime and record-keeping provisions of the Fair Labor Standards Act (FLSA).

- **4.5 FLSA Compensatory Time** - Time off at a rate of not less than one and onehalf hours for each overtime hour worked, instead of cash overtime pay.

5.0 ORGANIZATIONAL RULES

- **5.1 Authorization of Overtime** - The most important element of controlling costs associated with overtime is to limit or eliminate such overtime when possible. To facilitate this, each department must designate those persons authorized to permit and control overtime. It should be noted that authorizing overtime represents a direct expenditure of budgeted funds as would the purchase of supplies. Thus, the same care should be taken in determining if the overtime is essential.
- **5.2 Adjustments Within the Same Work Week**
 - A. FLSA defines overtime as all hours worked over 40 work hours during a given work week, not hours worked over eight in a given day. However, it is possible to control overtime hours by adjusting work schedules on an hour-for-hour basis during the work week.
 - B. Even though an employee works more than eight hours on a workday, his work schedule may be adjusted so that he does not work over 40 work hours in his designated work week.
 - 1. **Example** - A heavy workload makes it necessary for Employee Edwards to work a total of 12 hours on Monday. Supervisor Brown, at his discretion, manages these extra hours by scheduling Employee Edwards off (not charged to any leave) for four hours on Tuesday. Supervisor Brown could have elected to schedule Employee Edwards off on any other day within the work week.
 - 2. There is no overtime pay when time off is scheduled on an hour-for-hour basis in the same work week. However, overtime work results and overtime compensation is mandatory for all work time over 40 work hours in any specific work week.
 - C. Adjustments within the same work week must be the first recourse attempted by a supervisor designated to manage and control overtime hours.
- **5.3 Compensatory Time Method of Compensation** - If it is not possible to avoid overtime by altering work schedules within the work week, then it will be Town policy to compensate the affected employees whenever possible through the accumulation of FLSA Compensatory Time as prescribed by the FLSA except as provided for in Section 5.4 below. This is accomplished as follows:
 - A. An employee requesting (in advance as with Annual Leave) to use accumulated FLSA Compensatory Time, should be allowed to do so unless this request will unduly disrupt the operations of the agency. The term "unduly disrupt" does not include the mere inconvenience or the resulting overtime cost of other employees working for the employee taking Compensatory Time off.
 - B. Supervisors have the authority to require (with advance notice) an employee to use accumulated compensatory time at a time that is convenient for the operation.
 - C. The total balance of accumulated FLSA Compensatory Time may never exceed 240 hours, or 480 hours for employees engaged in Police and Fire protection work. Should an employee with a balance this high work additional overtime, then the

additional overtime must be compensated by a cash payment. See Section 5.4 below.

D. Individual departments are authorized and encouraged to establish limits less than 240 hours since widespread accumulation of large amounts of overtime could disrupt future operation of various work units.

E. There is no time limitation in which accumulated FLSA Compensatory Time must be used, but individual departments, divisions and sections are authorized and encouraged to establish such limits as necessary to assure effective operations.

F. Employees scheduling time off, such as a vacation day, will be required to utilize any Compensatory Time available to them before utilizing any other paid time off day.

G. Upon termination of employment, any FLSA Compensatory Time balance must be paid in full at the employee's current applicable rate or the employee's average hourly rate over the past three years whichever is higher.

- 5.4 In situations where the Town Manager has declared an emergency (usually related to emergency weather conditions), an employee working in excess of his normal work schedule will be compensated through the payment of overtime (at 1½ times his normal rate of pay) rather than compensatory time. In a declared emergency, the employee does not have the opportunity to choose whether he prefers to be compensated through receipt of compensatory time or payment of overtime.
- **5.5 Overtime Payment Method of Compensation** - When overtime cannot be eliminated or controlled as outlined in Section 5.1, it must be paid at one and one half (1½) times the applicable hourly rate. If overtime is not compensated by the use of compensatory time as outlined in Section 5.3, then it is the Department Director's responsibility to ensure that the compensation payment is paid accurately and in a timely manner.

6.0 PROCEDURES

- 6.1 Every day the non-exempt employee will complete his timesheet, accurately recording time worked to the nearest one-quarter hour.
- 6.2 The supervisor will review the employee's time sheet and at the end of the payroll period sign the timesheet. Signing the timesheet is an indication the supervisor agrees with the time as recorded by the employee and is an authorization to pay the employee according to recorded time. If the supervisor has any questions about the time recorded by the employee, he should discuss this with the employee and reconcile any questions prior to signing the timesheet. The supervisor will ensure the employee has appropriately completed a **Leave Request Form** for any time not worked that requires a leave slip.
- 6.3 If the employee has worked overtime during the pay period, the supervisor will ensure the employee is compensated in accordance with this policy by one of the following:
 - A. **Compensatory Time** - At the end of each pay period if an employee has worked overtime during the work week, as defined by the FLSA, this number of hours shall be recorded on a Leave Request Form (or approved alternative) as FLSA Compensatory Time Earned. This form should be signed by someone approved to authorize overtime and entered into the payroll tracking system.

If the time sheet shows overtime hours which are to be compensated as FLSA Compensatory Time, this fact should be clearly noted on the time sheet to avoid double payment of overtime.

- B. **Paid Overtime** - When overtime cannot be eliminated or controlled and the payment of overtime has been authorized, the supervisor will ensure the employee is paid overtime.

7.0 APPENDIX, APPENDICES

Leave Request Form