

CF OPERATING PROCEDURE
NO. 60-01, Chapter 2

STATE OF FLORIDA
DEPARTMENT OF
CHILDREN AND FAMILIES
TALLAHASSEE, July 1, 2018

Human Resources

HOURS OF WORK, OVERTIME AND COMPENSATORY LEAVE

2-1. Purpose. This operating procedure establishes a uniform Department-wide policy for hours of work including authorization and compensation for overtime; payment for regular compensatory leave credits to employees under certain specific circumstances; and the accrual and granting of compensatory leave credits.

2-2. Scope. This operating procedure applies to all Career Service employees in positions employed by the Department of Children and Families.

2-3. References.

- a. Chapter 110, Public Officers, Employees and Records, Florida Statutes (F.S.).
- b. Chapter 60L-34, Attendance and Leave, Florida Administrative Code (F.A.C.).
- c. Fair Labor Standards Act (FLSA).
- d. United States Department of Labor Wage and Hour Division Regulations Part 785, Hours Worked, and Fact Sheet #22, Hours Worked Under the Fair Labor Standards Act (FLSA).
- e. State of Florida Collective Bargaining Agreements (see Attachment 2 to this chapter for chart of special compensatory leave provisions by collective bargaining agreement).

2-4. Definitions. For the purposes of this operating procedure, the following terms shall be understood to mean:

- a. Included Position. A position in a class designated to receive overtime pay in accordance with the FLSA or to earn FLSA special compensatory leave.
- b. Excluded Position. A position in a class designated by DMS as exempt from the overtime provisions of FLSA.
- c. Workweek. Seven (7) consecutive 24 hour periods, beginning at 12:00 a.m. on Friday and ending at 11:59 p.m. on the Thursday of the following week.
- d. Biweekly Work Period. Fourteen (14) consecutive 24 hour periods, normally beginning at 12:00 a.m. on Friday and ending at 11:59 p.m. on Thursday of the second week.
- e. Out-of-Unit Employee. An employee not included in a collective bargaining unit represented by an employee organization, i.e., union.
- f. Overtime. For an employee filling an included position, overtime is defined as the hours of work, excluding holidays and leave with pay, in excess of 40 hours during the established workweek

This operating procedure supersedes CFOP 60-1, Chapter 2, dated April 10, 2018.

OPR: ASHR

DISTRIBUTION: A

(unless an extended work period for law enforcement or firefighters is approved). For an employee filling an excluded position, overtime is defined as the hours of required work, excluding holidays and leave with pay, in excess of 80 hours in the biweekly work period.

g. Special Compensatory Leave Credits. Leave credits earned for employees filling included or excluded positions when work is required on the day a holiday is observed; the day of observance of a holiday falls on the employee's regular day off; or the actual hours worked plus holiday time observed exceed the normal hours for the workweek or biweekly work period.

h. Regular Compensatory Leave Credits. Leave credits in lieu of overtime payment accrued by an employee filling an excluded position who is required to work in excess of 80 hours in a biweekly work period.

i. Base Rate of Pay. An employee's salary excluding any salary additives.

j. Regular Rate of Pay. An employee's base rate of pay plus approved salary additives.

2-5. General.

a. Management should arrange the work schedules in such a way that overtime is not required, except in emergency situations. All employees are, however, required to work extra hours when instructed to do so by their managers or supervisors.

b. For general overtime purposes, emergency situations are defined as:

(1) When an established post of duty must be covered 24 hours per day and coverage is not sufficient;

(2) When danger to the life, health, or well-being of the public, employees, patients, or other persons could occur if an employee is not required to be on duty or where danger to property is imminent; or,

(3) During situations when the appropriate delegated authority determines the direct or indirect statutory responsibilities prescribed for the Department cannot be accomplished, unless overtime work is authorized.

c. Employees are responsible for accurately recording all hours worked on their timesheet in the People First system or any alternative system that may be used, such as KRONOS.

d. Supervisors are responsible for ensuring that all hours worked are recorded on the employee's timesheet.

e. It is strictly prohibited to falsify the number of hours worked when completing the timesheet. Falsifying a timesheet is subject to appropriate disciplinary action up to and including dismissal.

2-6. Hours of Work.

a. The following are examples of hours counted towards the scheduled 40-hour workweek for included employees or the scheduled 80 hour pay period for excluded employees:

(1) All hours of actual work;

(2) Two paid rest breaks of fifteen minutes each during an eight-hour shift, if approved by the supervisor;

(3) Required attendance at training courses; or,

(4) Any time spent in required travel, whether on regular workdays or regular days off. See United States Department of Labor Wage and Hour Division Regulations Part 785, Hours Worked, and Fact Sheet #22, Hours Worked Under the Fair Labor Standards Act (FLSA), for additional guidance on travel time and hours worked. Fact Sheet #22 is available at the following website:

[USDOL Fact Sheet #22](#)

Example: Several employees are required to travel from their Headquarters in Tallahassee to Orlando, so to minimize travel expenses they are authorized to rent a car so they can all travel together in the rental car to Orlando. However, one employee has relatives in Orlando and wants to stay in Orlando after business is conducted and visit his relatives. The employee who wanted to stay in Orlando was approved annual leave after business was conducted and permitted to drive his personal vehicle at his own expense. All employees left Tallahassee during their normal work hours, and the required travel time was considered hours of work. Likewise, the required travel for the return trip to Tallahassee was considered hours of work. The employee who stayed in Orlando after business was conducted and was approved annual leave also would be considered on work time for the required travel time to drive back to Tallahassee per the Florida Department of Management Services (DMS).

b. When an employee is on call, unless otherwise provided in an applicable collective bargaining agreement, and called back to the work-site beyond the employee's scheduled hours of work for that day, the employee is either credited for the actual time worked or for a minimum of two (2) hours of work, whichever is greater. *Only actual time worked is counted as hours worked for the purpose of computing overtime compensation.*

2-7. Offsetting Extra Hours Worked.

a. Extra hours worked in a workday should be offset by giving the employee equal time off during the same workweek (included employee) or work period (excluded employee) in which the extra hours were worked, if possible.

b. If an employee works more than his regular scheduled hours in a workday, workweek, or biweekly work period, and takes approved leave during this period, leave credits will only be charged in the amount necessary to bring the included employee's weekly total to 40 hours and the excluded employee's biweekly total to 80 hours.

2-8. Compensation for Overtime and Accrual of Regular Compensatory Leave Credits. Overtime hours worked by included and excluded employees shall be compensated in accordance with the following:

a. Overtime worked by included employees will be compensated for at one and one-half times the employee's hourly regular rate of pay for all hours of actual work over 40 hours in the seven-day workweek (unless an extended work period for law enforcement or firefighters is approved) unless FLSA Special Compensatory Leave credits are requested and approved in accordance with CFOP 60-40, Chapter 1.

b. Career Service employees filling excluded positions will be granted regular compensatory leave credits on an hour-for-hour basis for all approved and required hours of actual work over 80 hours in the 14-day biweekly work period.

2-9. Benefit to Excluded Employees for Regular Compensatory Leave Credits.

a. The Department may pay excluded Career Service employees for unused regular compensatory leave credits on an hour-for-hour basis, using the criteria in the approved agency extraordinary compensation plan:

(1) The employee must incur the regular compensatory leave credits while working on a pre-approved special project approved under the agency extraordinary compensation plan that is of benefit to the Department; a declared emergency; or, on work related to a natural disaster; and,

(2) The affected budget entity must have sufficient funding available.

b. Payment will be made at the employee's straight time regular hourly rate of pay.

c. Payments are approved via the extra pay approval process in the People First system and are automatically paid on the supplemental (when possible) or on the next available payroll.

d. Authority to approve such requests is delegated to the Deputy Secretary of the Department.

(1) Requests must be submitted to the Deputy Secretary in writing and must contain adequate documentation of the proposed special project, emergency situation, or details of the natural disaster.

(2) Requests must identify that funds are available within the affected budget entity(ies) and that payment is contingent upon that fact.

e. No cash payment shall be made for any regular compensatory leave credits earned prior to the effective date of the approved agency extraordinary compensation plan.

f. Each region, facility, and headquarters human resources staff must maintain a record of all special projects, emergency situations and declared emergencies for which overtime payment to excluded employees has been approved. This will include a complete description of the activity and a copy of the approval for payment from the Deputy Secretary. In addition, a copy of the approval must be maintained for audit purposes.

2-10. Recording of Compensatory Leave. Regular and special compensatory leave earned and taken must be recorded on the timesheet in the People First system.

2-11. Authorizing or Requiring the Use of Compensatory Leave Credits.

a. Management can require employees to use accumulated regular compensatory leave credits. If the Department requires an employee to use such leave, every effort should be made to grant hours of leave equal to the number of hours in the employee's regular workday, or in increments agreed to by the employee and supervisor. If such mutual agreement is not reached, the supervisor may, with a minimum of five (5) workday's notice, require the employee to use such credits at any time.

b. It is Department policy to require an employee to use accumulated special compensatory leave credits prior to other types of approved leave, with the exception of sick leave, administrative leave, FLSA compensatory leave and the personal holiday. The substitution of special compensatory leave for requests of regular compensatory leave or annual leave are required unless such leave is being substituted for an employee's unpaid leave granted in accordance with the federal Family and Medical Leave Act (FMLA) or Section 110.221(2)(c), F.S., of the Family Supportive Work Program (FSWP) or both (see DMS Rule Interpretation 60L-34-2008-#005). Also see paragraph 2-12c below.

2-12. General Provisions for Compensatory Leave Credits.

a. Excluded employees may not accrue more than 240 hours of regular compensatory leave.

b. Special compensatory leave credits granted in association with an observed state holiday should be used as a delayed holiday and should not be accumulated. This type leave is generally referred to as "holiday special compensatory leave." Special compensatory leave for an office closure is addressed in CFOP 60-40, Chapter 8 (Leave for Disasters and Other Emergency Conditions).

c. Effective July 1, 2012, for employees in the Security Services Unit and the Fire Services Unit, there is no cash value for any holiday special compensatory leave credits accrued on or after July 1, 2012, and any holiday special compensatory leave credits will be subject to forfeiture at six month intervals on April 30 and October 31 of each year. However, employees in the Security Services Unit will be eligible for payment of special compensatory leave earned on or after November 1, 2014, in accordance with paragraph 2-12e of this operating procedure. In 2012 it was the stated intent of the Department of Management Services to move all Career Service employees to the same "use it or lose it" provisions. Therefore, it is Department policy to require employees to use any special compensatory leave credits prior to approving an employee's request to use other types of approved leave (with the exception of sick leave, administrative leave, FLSA compensatory leave and the personal holiday) in accordance with DMS Rule 60L-34.0044 and subject to any limitations in any applicable collective bargaining agreement (check applicable bargaining agreement for specific provisions). Note that People First functionality now includes this as a business rule (use special compensatory leave first rather than annual leave or regular compensatory leave). However, if public safety concerns preclude the Department from granting time off, the expiring holiday special compensatory leave credits may be carried forward for an additional 180 days past the original deadline. Any request to carry over holiday special compensatory leave credits must be approved in advance by the Deputy Secretary, Assistant Secretary, Hotline Director, Regional Managing Director, or Hospital Administrator. Form CF 751 (available in DCF Forms), "Approval to Carry Over Holiday Special Compensatory Leave Credits," must be used to request the carry over and approved forms should be submitted to Human Resources Service Center (HRSC) no more than 10 calendar days after the forfeit date. Every reasonable effort should be made to ensure that any earned special compensatory leave is used in a timely manner rather than forfeited. The process should ensure administrative unit and supervisory planning and scheduling accountability and consistency, as well as administrative efficiency.

d. Effective October 9, 2012, for employees in the Human Services Unit, Professional Unit, Operational Services Unit, and Administrative and Clerical Unit (represented by AFSCME Council 79), and the Professional Health Care Unit (represented by the Florida Nurses Association), there is no cash value for any holiday special compensatory leave credits accrued on or after October 9, 2012, and any holiday special compensatory leave credits will be subject to forfeiture at six month intervals as set forth in paragraph 2-12c above. See paragraph 2-12c above for instructions on requesting approval of carry over of such leave credits. However, bargaining unit employees in the Professional Health Care Unit will be eligible for payment of special compensatory leave earned on or after November 1, 2017, in accordance with paragraph 2-12f of this operating procedure.

e. Effective November 1, 2014, for employees in the Security Services Unit, there is a cash value for any holiday special compensatory leave credits accrued on or after November 1, 2014, and any such unused special compensatory leave credits will be subject to an automatic extension period of 180 calendar days at six month intervals on April 30 and October 31 of each year. After the 180 calendar days' automatic extension has expired, any remaining special compensatory leave credits, earned on or after November 1, 2014, shall be payable at the employee's current regular rate of pay. Therefore, employees in the Security Services Unit will not be subject to "use it or lose it" of special compensatory leave earned on or after November 1, 2014. All special compensatory leave credits earned on or after November 1, 2014, shall be used prior to any pre-November 1, 2014, credits.

f. On December 12, 2017, the state and the Florida Nurses Association (FNA) signed a Memorandum of Agreement (MOA) which provides that Professional Health Care Unit employees on December 12, 2017, are eligible for payment of holiday special compensatory leave accrued on or after November 1, 2017. Effective November 1, 2017, for these bargaining unit employees, there is a cash value for any holiday special compensatory leave credits accrued on or after November 1, 2017, and any such unused special compensatory leave credits will be subject to an automatic extension period of 180 calendar days at six (6) month intervals on April 30 and October 31 of each year. After the 180 calendar days' automatic extension has expired, any remaining special compensatory leave credits, earned on or after November 1, 2017, shall be payable at the employee's current regular rate of pay. Therefore, employees in the Professional Health Care Unit represented by the Florida Nurses Association, on December 12, 2017, will not be subject to "use it or lose it" of special compensatory leave earned on or after November 1, 2017. All special compensatory leave credits earned on or after November 1, 2017, shall be used prior to any pre-November 1, 2017, credits.

g. Included in Attachment 2 to this chapter is a Department of Management Services chart with special compensatory leave provisions by collective bargaining unit.

h. A Career Service employee who moves to a different pay plan or separates from the Department shall be paid for any unused special compensatory leave earned prior to the adoption of the "use it or lose it" provisions for their respective bargaining unit (special compensatory leave that has no cash value is set forth in paragraphs 2-12c and d above, i.e., the effective dates of the "use it or lose it" provisions for each bargaining unit). The rate of pay for payment of special compensatory leave eligible for pay will be determined based on the employee's current regular rate of pay. Included in Attachment 1 to this chapter is a Department of Management Services developed matrix for payment or transfer of leave among pay plans.

i. As noted in paragraph 2-12c, it was the stated intent of the Department of Management Services to move all Career Service employees to the same "use it or lose it" provisions. However, since the inception of the provisions in paragraph 2-12c and d above, the Department of Management Services has implemented an exception in paragraph 2-12e above. Additionally, the Department of Management Services since advised that Out-of-Unit Career Services employees are not subject to "use it or lose it" (was not included in the rule revision). However, Out-of-Unit employees should continue to be required to use any special compensatory leave credits prior to approving an employee's request to use other types of approved leave (with the exception of sick leave, administrative leave, FLSA compensatory leave and the personal holiday) in accordance with DMS Rule 60L-34.0044.

j. When a Career Service employee moves from one position in an excluded class to another Career Service position in an excluded or included class within the Department, all regular compensatory leave credits will be transferred.

k. When a Career Service employee moves from an excluded class to a Selected Exempt Service or Senior Management Service class, the employee forfeits any accrued regular compensatory leave credits.

l. Regular compensatory leave credits cannot be transferred between agencies. No cash payment shall be made for unused regular compensatory leave credits, except as provided for in an agency-wide plan as described in paragraph 2-9 of this operating procedure.

BY DIRECTION OF THE SECRETARY:

(Signed original copy on file)

SHELBY JEFFERSON
Acting Human Resources Director

SUMMARY OF REVISED, DELETED, OR ADDED MATERIALS

This revision updates Department policy including, but not limited to, the following:

1. Adds a link to United States Department of Labor Fact Sheet #22 at the end of paragraph 2-6a(4).
2. Adds a provision in paragraph 2-12c that all approved CF 751 forms should be submitted to the HRSC no more than 10 calendar days after the leave forfeit date.
3. Adds a new paragraph 2-12f to address a change in holiday special compensatory leave for employees in the Professional Health Care Unit represented by the Florida Nurses Association (FNA). These changes are based on DMS HRMA #2017-021.
4. Updates charts in attachments to the current Department of Management Services charts.
5. Other minor changes in an effort to be as clear and concise as possible.

Special Compensatory (SC) Matrix for Payment or Transfer of Leave Among Pay Plans

| From Use It or Lose It | From Pay Plan | To Use It or Lose It | To Pay Plan | Transfer Hours | Pay Eligible Hours | Adjust Hours | Comments |
|---|---------------|----------------------|---------------|----------------|--------------------|--|--|
| Intra Agency Process | | | | | | | |
| Yes | CS | No | CS | Yes | No | | Forfeiture 5/1 & 11/1 still applies for 90 series SC transferred |
| No | CS | Yes | CS | Yes | No | Move any hrs. in 90 series to pre-July 2012 bucket | |
| Yes | CS | N/A | SES/SMS | No | Yes | Reduce 90 series hours to zero | SC hours earned under use it or lose it are not eligible for payout. |
| No | CS | N/A | SES/SMS | No | Yes | | |
| N/A | SES/SMS | Yes | CS | No | Yes | | |
| N/A | SES/SMS | No | CS | No | Yes | | |
| N/A | SES | N/A | SMS | No | Yes | | |
| N/A | SMS | N/A | SES | No | Yes | | |
| N/A | SES/SMS | N/A | Same Pay Plan | Yes | No | | |
| Interagency Process | | | | | | | |
| | CS | | CS | No | Yes | N/A | SC hours earned under use it or lose it are not eligible for payout. |
| | CS | | SES/SMS | No | Yes | N/A | SC hours earned under use it or lose it are not eligible for payout. |
| | SES/SMS | | CS | No | Yes | N/A | |
| | SES/SMS | | SES/SMS | No | Yes | N/A | |
| Career Service = CS, Selected Exempt Service = SES and Senior Management Service = SMS | | | | | | | |
| Use it or lose it provisions apply to the Fire Service (FSFSA) and Security Services units effective July 1, 2012 and expire for Security Services on November 1, 2014. | | | | | | | |
| Use it or lose it provisions apply to the AFSCME and FNA units effective October 9, 2012 and expire for FNA on November 1, 2017. | | | | | | | |
| SC hours eligible for payment may be found in the matrix on <i>Special Compensatory (SC) Leave Provisions by Collective Bargaining Unit</i> | | | | | | | |
| Authority - 60L-34.0044 (1), F.A.C. and Rule Interpretation 60L-34-2007-#001 | | | | | | | |

Prepared by DMS - Division of Human Resource Management
6/25/13 (Revised 11/05/13, 11/10/14 and 2/20/18)

**Special Compensatory (SC) Leave Provisions by Collective Bargaining Unit
(FY 2017 - 2018 Collective Bargaining Agreements¹)**

| Collective Bargaining Unit | Subject to Substitution | Subject to Compelled Use | Total SC Usage Per Calendar Year Before Required Annual or Regular Comp Use² | Use It or Lose It by 4/30 and 10/31 Each Year | Pay as You Go | Accrual Periods for Credits Payable at Separation | 240-Hour Payment Cap |
|---|--------------------------------|---------------------------------|--|--|----------------------|--|--|
| AFSCME | Yes | Yes | All hours | Yes | No | Pre 10/9/12 | No |
| Fire Service Unit (FSFSA) | Yes | Yes | All hours | Yes | No | Pre 7/1/12 | No |
| Professional Health Care Unit (FNA) | Yes | Yes | All hours | 10/9/12-10/31/17-Yes, Effective 11/1/17-No | Yes | Pre 10/9/12 Post 11/1/17 | No |
| Security Services Unit (PBA) | Yes | Yes | All hours | 7/1/12 to 10/31/14-Yes, Effective 11/1/14-No | Yes | Pre 7/1/12 & Post 11/1/14 | No |
| SES Physicians Unit (FPD) | Yes ³ | Yes | All hours | No | No | Pay All | No |
| SES Supervisory Non-Professional Unit (FPD) | Yes ³ | Yes | All hours | No | No | Pay All | No |
| SES Attorneys Unit (SEAG) | Yes ³ | Yes | All hours | No | No | Pay All | No |
| Florida Highway Patrol Unit (PBA) | Yes ³ | 60 days after accrual | 120 hours per calendar year until balance reaches 240 ⁴ | No | No | Pay All | Cap for new hires 7/1/11, others set by agency |
| Law Enforcement Unit (PBA) | Yes ³ | 60 days after accrual | 120 hours per calendar year until balance reaches 240 ⁴ | No | No | Pay All | Cap for new hires 7/1/13, others set by agency |
| Special Agent Unit (PBA) | Yes ³ | 60 days after accrual | 120 hours per calendar year until balance reaches 240 ⁴ | No | No | Pay All | Cap for new hires 7/1/13, others set by agency |
| Non-Unit Employees | Yes | Yes | All hours | No | No | Pay All | No |

¹This matrix represents collective bargaining agreement provisions for FY 2017-2018. Consult the latest version of each agreement to ensure an accurate representation of SC provisions.

²Annual leave may be used before SC when it is approved for the Family and Medical Leave Act or the Family Supportive Work Program.

³No forced substitution in People First, but manual process expected per authority in Rule 60L-34.0044, Florida Administrative Code.

⁴For three PBA units only, substitution of 0055 balances only applies if SC balances are over 240 hours and the employee requests annual leave.