

# Georgia Department of Public Safety

## Policy Manual

<b>SUBJECT</b> <b>WORK HOURS AND OVERTIME</b>	<b>POLICY NUMBER</b> <b>5.13</b>
<b>DISTRIBUTION</b> <b>ALL EMPLOYEES</b>	<b>DATE REVISED</b> <b>1/23/2023</b>
	<b>POLICY REVIEWED</b> <b>1/23/2023</b>

### 5.13.1 Purpose

To establish policy and procedures for work hours, overtime, and maintenance of records in compliance with the provisions of the federal Fair Labor Standards Act (FLSA) of 1938 as amended, Office of Planning and Budget (OPB) guidelines, and the State Personnel Board Rules. This policy recognizes the goal of state government to minimize the occurrence of overtime work while maintaining compliance with state and federal laws.

### 5.13.2 Policy

The Georgia Department of Public Safety (DPS) will comply with the FLSA, which establishes minimum wage, overtime pay, recordkeeping standards, and other state laws and regulations related to work hours and employee leave. Since the FLSA takes precedence over State policy, any conflicts between the two must be resolved by complying with the federal requirements.

### 5.13.3 Definitions

- A. Exempt Employee – a DPS member who is not covered by the Wage and Hour provisions of the FLSA because their duties and responsibilities meet the criteria for one of the following exemptions: Executive, Professional, or Administrative.
- B. Non-Exempt Employee – a DPS member who is covered by the Wage and Hour provisions of the FLSA and who must receive overtime pay at a rate not less than time and one-half of his/her regular rate of pay.
- C. Sworn Employee – any DPS member who has an active Peace Officer certification from the Georgia Peace Officer Standards and Training Council (P.O.S.T.). For purposes of DPS Policy 5.13 only, this also includes any cadet currently attending a Trooper School or police academy.
- D. Civilian Employee – any DPS member that does not have an active P.O.S.T Peace Officer certification.
- E. Work Period – a fixed, regularly recurring period of a set number of consecutive days.
- F. Actual Work Hours - on-duty work hours that do not include any non-work hours such as leave or holiday time.
- G. Standard Work Hours - work hours and paid leave time that satisfy the salary assigned to the position.

- H. Required Hours - the number of actual work hours necessary for Non-Exempt Employees to satisfy the provisions for overtime compensation/pay as outlined in the FLSA. For Civilian Employees, the requirement is 40 actual work hours in a 7-day work period. For Sworn Employees, it is 171 actual work hours in a 28-day work period.
- I. Paid Leave Time –all paid leave types included in State Personnel Board Rule 16. Paid leave time is not included when calculating the total number of work hours to determine FLSA overtime.
- J. State/Georgia Compensatory Time – compensatory time allowed by the State for circumstances not covered by the FLSA.
- K. FLSA Compensatory Time – compensatory time generally earned when Non-Exempt Employees actually work more than the Required Hours during a Work Period according to the provisions of the FLSA. FLSA compensatory time is granted at 1.5 hours for each hour worked over the required hours when such excess hours are not otherwise compensated through paid overtime.
- L. Restoration of Leave – the process utilized to provide members with the maximum ability to maintain leave in lieu of accumulation of any compensatory time. When employees are required to exceed 40/160 hours in a 7/28 day work period in which they have taken approved paid leave, the leave shall be restored by the number of leave hours taken by which the 40/160 hours minimum requirement is exceeded.

#### **5.13.4 General Provisions**

- A. The regular business workweek for DPS administration is Monday through Friday, 8:00 A.M. to 4:30 P.M. excluding official state holidays. Due to the nature of the department's public safety operations, certain units are required to operate 24 hours a day, 7 days a week.
- B. Division/Unit Directors and the supervisors under their command are responsible for ensuring that a sufficient number of personnel are available when needed to fulfill the operational and administrative needs of DPS and its customers.
- C. The Human Resources Division, using criteria established by the FLSA, makes designations of Exempt or Non-Exempt status. Such designations are made on an individual basis and are derived from the actual work responsibilities assigned to each employee.
- D. Employees shall sign a statement of understanding that FLSA Compensatory Time shall be used to compensate Non-Exempt Employees when overtime is accrued. The maximum accrual of FLSA Compensatory Time shall be 240 hours for Civilian Employees and 480 hours for Sworn Employees. Employees who accumulate FLSA hours over the maximum accrual shall be paid for such hours.
- E. Work Periods
  - 1. Under the FLSA, Non-Exempt Employees, who are sworn members of law enforcement services, are permitted extended Work Periods for the calculation of overtime. This includes cadets who are currently attending a trooper school or police academy.

2. The established Work Period for Non-Exempt sworn members is a fixed regularly recurring period of 28 consecutive days beginning at 0001 on the first Monday of each 28-day period and ending at 2400 on the final Sunday.
3. The established Work Period for all DPS civilian employees and Exempt Sworn Employees is a fixed, regularly recurring period of seven consecutive days from 12:00 A.M. Monday through 11:59 P.M. Sunday.
4. The established Work Period for sworn members detached to a federal agency is the Work Period utilized by the federal agency during the time of detachment.

F. Standard Work Hours

1. The Standard Work Hours for Exempt sworn and all civilian personnel will be 40 hours (inclusive of work hours, paid leave time and holiday time) in a seven-day period (40/7).
2. The Standard Work Hours for Non-Exempt sworn personnel will be 160 hours (inclusive of work hours, paid leave time and holiday time) in a 28-day work period (160/28) unless otherwise defined in this policy.
3. In the event of a furlough, Standard Work Hours for all affected employees shall be defined by an approved furlough plan of DPS.
4. Any time the Actual Work Hours are less than the Standard Work Hours (40/7 or 160/28), the employee shall make up the difference in some form of leave or compensatory time or be placed on leave without pay.

G. Overtime Work Hours

1. All employees may be required to work overtime upon the direction of their supervisor(s) as dictated by operational needs.
2. Increments – Overtime will be earned and compensated for in five (5) minute increments. Employee starting and stopping time should be rounded to the nearest five (5) minutes and entered on the time sheet as follows:

<b><u>Minutes Worked</u></b>	<b><u>Time sheet entry</u></b>
<u>5 minutes</u>	<u>0.08</u>
<u>10 minutes</u>	<u>0.17</u>
<u>15 minutes</u>	<u>0.25</u>
<u>20 minutes</u>	<u>0.33</u>
<u>25 minutes</u>	<u>0.42</u>
<u>30 minutes</u>	<u>0.50</u>
<u>35 minutes</u>	<u>0.58</u>
<u>40 minutes</u>	<u>0.67</u>
<u>45 minutes</u>	<u>0.75</u>
<u>50 minutes</u>	<u>0.83</u>
<u>55 minutes</u>	<u>0.92</u>

3. Non-Exempt Employees are required to report all time worked.
4. Overtime for Non-Exempt Sworn Employees shall be compensated at 1.5 times the hourly rate or 1.5 hours for each Actual Work Hour above 171 in a 28-day work period.
5. Overtime for Non-Exempt Civilian Employees shall be compensated at 1.5 times the hourly rate or 1.5 hours for each actual work hour above 40 in a 7-day work period.

6. All Non-Exempt employees are prohibited from working more than the required hours in a work period (40/171) unless authorized by supervisor in their chain of command. An employee may work additional hours in emergency circumstances but must promptly notify his/her supervisor of the circumstances and record the time worked on his/her time sheet.
7. Non-Exempt Employees must be compensated for all time which supervisors know or have reason to know that work is being performed, including work performed outside of regularly scheduled work hours.
8. Non-Exempt Employees who work more than the required hours without authorization or notification of the time worked may be subject to disciplinary action, up to and including separation.

#### H. Leave Restoration/Adjustments

1. When a DPS Employee is required to exceed his/her respective 40/160 hours in a 7/28-day Work Period in which he/she has taken approved paid leave, the leave shall be restored by the number of hours by which 160/40 hours is exceeded.
2. Leave restoration shall be calculated by subtracting the minimum number of Standard Work Hours from the combined total of Actual Work Hours plus all paid leave and holiday hours.
3. The number of hours restored cannot exceed the number of leave hours that were actually taken.
4. The Human Resources Division shall enter restored leave calculations from the information received from approved timesheets.

### **5.13.5 FLSA Compensatory Time**

- A. Non-Exempt Employees will be granted FLSA Compensatory Time at 1.5 hours for each hour worked above the Required Hours (40/171) in a Work Period when such excess hours are not otherwise compensated through paid overtime.
- B. FLSA Compensatory time is calculated using Actual Work Hours. FLSA compensatory time is not granted to Non-Exempt employees who may have been in pay status for more than the Required Hours (40/171) during a Work Period due to a holiday or use of Paid Leave Time, but who did not actually work more than the Required Hours.
- C. The following guidelines apply to FLSA Compensatory Time:
  1. Sworn Non-Exempt employees may not accumulate more than 480 hours of FLSA Compensatory Time.
  2. Civilian Non-Exempt employees may not accumulate more than 240 hours of FLSA Compensatory Time.
  3. Even after accrual of the 240/480 hours of FLSA Compensatory Time, employees may still be required to work additional hours as operationally required by their supervisor. Such additional work hours shall be compensated for by payment at the overtime rate.

4. Accrued FLSA Compensatory Time shall be taken in accordance with the provisions of the Leave Policy #5.09.
5. A supervisor may require an employee to take accrued FLSA Compensatory Time instead of annual or sick leave, except when taken in conjunction with the Family and Medical Leave Act. Further, to reduce the amount of accrued FLSA Compensatory Time, a Division Director, Adjutant, or any other supervisor may require an employee to use FLSA Compensatory Time at any time.
6. Upon termination of employment, retirement, or transfer to another State agency, employees shall be paid for all unused accrued FLSA compensatory time. FLSA Compensatory Time cannot be transferred between State agencies.

### **5.13.6 State (Georgia) Compensatory Time**

- A. When an Exempt Employee has paid leave and Actual Work Hours in excess of the Standard Work Hours, the employee will accrue State Compensatory Time on an hour for hour basis.
- B. When a Non-Exempt Employee has Paid Leave and Work Hours in excess of the Standard Work Hours (40/160), the employee will accrue State Compensatory Time on an hour for hour basis until the Actual Work Hours exceed the Required Hours (40/171). Hours in excess of the required hours will be granted as FLSA compensatory time.
- C. Members will have Paid Leave Time restored prior to the accumulation of State Compensatory time.
- D. The following guidelines apply to State Compensatory Time:
  1. State Compensatory Time shall be awarded at the rate of one-hour for each hour of overtime worked and should be measured in five (5) minute increments as outlined in 5.13.4(G)2.
  2. An employee may not accumulate more than 240 hours of State Compensatory Time and must utilize all such time within one year of the date that it is earned.
  3. All State Compensatory Time not taken within one year of the date earned shall be forfeited.
  4. Even after accumulating the maximum 240 hours of State Compensatory Time, employees may be required to continue to work longer than normally assigned hours as operationally required by their supervisors.
  5. Accrued State Compensatory Time shall be taken in accordance with the provisions of the Leave Policy #5.09.
  6. Employees may be required to take State Compensatory Time instead of other types of Paid Leave Time, except when taken in conjunction with the Family and Medical Leave Act.
  7. Unused State Compensatory Time shall not be compensated upon termination, retirement or transfer to another State agency.

## 5.13.7 Work Hour Guidelines

A. Time worked includes (1) all time Non-Exempt employees are required to be on duty at prescribed workplaces, (2) all time during which Non-Exempt employees are required or permitted to work or perform services of benefit to DPS, and (3) all time supervisors know or have reason to know that work is being performed.

### B. Shifts that Span Two Days

All hours that are worked during a shift that extends beyond 2400 hours shall be reported on the day on which the greatest number of hours was worked during the shift.

### C. Meal Periods

1. Meal periods are provided to employees unless there are specific work-related reasons for not allowing meal periods.
2. Meal periods for Sworn and uniform Employees are considered work time.
3. Meal periods for Civilian non-uniformed Employees must be at least thirty minutes long. Time used for meals is not counted as hours worked for purposes of calculating overtime payments and employees must not perform any duties, whether active or inactive, during their meal periods.
4. Non-Exempt Employees are not permitted to occupy their workstations during meal periods without supervisory approval.

### D. Break Time

1. Employees may take up to two fifteen-minute breaks per workday. These breaks are considered work time for compensation purposes.
2. Unless specifically required by statute (such as the case with subsection 3 below), a break is a privilege and not a right. Should an employee be required to work during one or more break periods, no overtime or compensatory time is earned by such work.
3. Employees must be provided reasonable break time to express breast milk while on duty at a DPS facility. This time is considered work time. Supervisors are also responsible for ensuring that the employee has access to a private, lockable room or other location close to the work area, other than a toilet stall, to express breast milk.

### E. On-Call Time

1. On-call time is not work time unless an employee is required to remain on the premises of DPS or is so restricted that he or she cannot use the time effectively for his or her own purposes.
2. An employee who is not required to remain on the DPS premises but is merely required to be reached by telephone or by an electronic communication device is not working while on-call.

### F. Court

1. Members who are required to attend court for matters arising from their assigned duties shall carry all time as on-duty hours.

2. Hours expended while in court and travel to and from court shall be considered Actual Work Time. In addition, Sworn Employees shall include these hours via the electronic records management system work-hours application, Daily Activity Report, as "Court Hours".
3. The in-territory provision applies when determining when a member is on duty for court time.
4. No witness fee shall be accepted for such attendance in court.

#### **G. Travel Time/Training**

1. Travel related to Standard Work Hours
  - a. Civilian - On a Standard workday, travel time to and from an employee's residence to an assigned office, designated routine work site, or county assignment shall not be considered work time. All other associated travel during the employee's regular workday shall be considered work time.
  - b. Sworn - Troopers/Officers are assigned take home vehicles and are expected to patrol while operating those vehicles. See the Resident Patrolling Procedures in the Post Operations Policy #17.08.3(G). Exceptions may be designated for regular commutes to work in units such as the Office of Professional Standards.

2. Travel when required to return to duty after Standard Work Hours

If an employee is required to return to duty after returning home at the end of a regular shift or business day, all travel time associated with returning to duty will be considered work time.

3. Travel related to detached duty assignments

When an employee is placed on detached duty, any travel time increase to and from the employee's residence to the detached work site beyond that normally expended by the employee in reporting to and returning from his/her assigned office or routine duty assignment shall be considered work time.

4. Travel related to DPS required training

Employees who reside farther than 50 miles from a training site are provided lodging at State expense. Those employees should carry the time to travel to the training site and to return to their residence following the last day of class as work hours. Employees who are not entitled to lodging may carry their travel time each day. This time is in addition to the actual classroom time.

5. Training

- a. Time spent by employees attending meetings, training, and similar activities must be counted as time worked, unless each of the following conditions are met:
  - i. The attendance is outside of the employee's Standard Work Hours;
  - ii. Attendance is voluntary;

- iii. The meeting, training, etc. is not directly related to the employee's current position and his/her assigned duties and responsibilities; and
  - iv. The employee does not perform any productive work related to his/her position while in attendance.
- b. For those occasions which require an employee to stay overnight for one or more days, all time spent outside of Standard Work Hours are not counted as work time unless the employee is performing work, required to attend a meal or event, or unable to use his/her time for his/her benefit due to restrictions placed on the employee.

#### H. Special Details

- 1. When employees assigned to a special detail are required to stay overnight and be available for call back, they shall carry sixteen hours per day on the detail, or the actual number of hours worked if in excess of sixteen hours.
- 2. The time required to travel to and from the location shall be carried as Actual Work Hours.

#### I. Staying or Residing at a DPS Facility After Scheduled Work Hours

- 1. Employees who voluntarily stay on DPS premises are not considered to be working all of the time they are on the premises. Only the time an employee is performing work may be counted as work time.
- 2. The fact that employees cannot return home after work (for example, due to the distance between their duty assignment and home location) does not necessarily mean that they continue on duty after their shift.

### 5.13.8 Grant Overtime Procedures

- A. Grant overtime refers to time worked beyond the 160 hours in a 28-day period for Non-Exempt sworn personnel, or 40 hours for Exempt sworn and all civilian personnel in a 7-day period in which "grant" funds from an outside funding source other than the state appropriated funds for DPS are available to reimburse the DPS for the additional compensated hours.
- 1. For Exempt Employees, the first hour and subsequent hours over 40 hours in a 7-day period shall be compensated hour for hour in lieu of earned State Compensatory Time provided that grant funds are available and the additional hours that qualify for overtime are for grant eligible activities.
  - 2. For Non-Exempt Sworn Employees:
    - a. The first hour and subsequent hours over 160 hours, but less than or equal to 171 hours in the 28-day period shall be compensated hour for hour in lieu of earned State Compensatory Time provided that grant funds are available and the additional hours that qualify for overtime are for grant eligible activities.
    - b. The first hour exceeding 171 and subsequent hours shall be compensated at 1.5 hours for each hour worked for Non-Exempt sworn personnel in lieu of accrued FLSA Compensatory Time, provided that grant funds are available and the additional hours that qualify for overtime are for grant eligible activities.



3. For Non-Exempt Civilian Employees, the first hour and subsequent hours over 40 in a 7-day period shall be compensated at 1.5 hours for each hour worked in lieu of earned FLSA Compensatory Time, provided that grant funds are available and the additional hours that qualify for overtime are for grant eligible activities.
- B. The following provisions are only applicable to grant-funded programs or details for which a schedule can be determined in advance of the 28-day or 7-day work period. For example, such provisions shall not limit the Criminal Interdiction Unit (CIU), given assistance for unexpected requests of HIDTA, DEA, or other law enforcement entities. Additionally, these provisions will not apply to potential state and/or federally declared disasters as the hours are not scheduled in advance but occur in response to an emergency.
1. The total of Standard Work Hours and extra duty hours may not exceed 64 per week (Monday – Sunday).
  2. Sworn Employees may work up to eight hours while on pass, annual leave, personal leave, or compensatory leave. Under no circumstances will a Sworn Employee be allowed to work such programs while on sick leave or administrative leave. No Sworn Employee within a Post/Unit shall be permitted to work grant overtime if the Post/Unit complement for the day is below that specified in Policy #5.09 Leave.
  3. Sworn Employees may work up to four hours either before or after a full, regularly scheduled, shift.
  4. Sworn Members may work a maximum of 32 hours of grant overtime in any 28-day period.
  5. There must be a minimum of six hours off duty between regularly scheduled shifts, including extra duty hours.
  6. All extra duty must be approved, in advance, by the Troop/Region/Unit Coordinator, or designee. Available grant overtime hours shall be allocated to applicable Troops, Regions, or Units.
  7. Extra duty may be worked during designated periods only.
  8. All extra duty must be scheduled by the designated Troop/Region/Unit Coordinator, or designee.
  9. Announcements will be made regarding the times and location of grant overtime details involving Sworn Employees assigned to more than one Post/Station/Unit.
  10. Sworn Employees will not be paid for travel time to and from a grant overtime detail.
- C. Sworn Employees must have a minimum of 160 Actual Work Hours and/or Paid Leave Time during the 28-day period before overtime can be paid. This is a regular 28-day period with eight pass days. Annual leave, sick leave, compensatory leave, and holiday leave hours are counted toward the 160-hour minimum.
- D. All hours worked on grant overtime programs shall be reported via the electronic records management system work-hours application, Daily Activity Report, in the area provided in accordance with established procedures. Activity and Grant Overtime Hours shall be reported on the form provided for each grant overtime program.

- E. All overtime hours must be approved for payment by the Human Resources Director or designee and the Comptroller or designee, prior to payment being issued by payroll.

### **5.13.9 Alternative Work Schedules**

- A. Division Directors may approve the following alternative work schedules for individual Employees:
  - 1. Staggered Reporting Time - Employees within an organizational unit may be scheduled to report for work at specified intervals (e.g., 7:30 a.m., 8:00 a.m., 8:45 a.m., etc.).
  - 2. Daily Flex - Employees may be permitted to report for work at varying times but shall be scheduled for duty during the hours that will be beneficial to DPS.
  - 3. 9-Hour Day - This plan covers a two-week period. Employees approved for this alternative schedule may be permitted to work four 9-hour days and a fifth day that alternates as an 8-hour day one week and a day off the next week. This schedule requires that the FLSA 7-day Work Period always begin in the middle of the 8-hour day.
  - 4. 10-Hour Day - Employees may be permitted to work four 10-hour days.
- B. Provisions for adequate supervision of Non-Exempt Employees working alternative work schedules shall be made.
- C. Employees who work 9-hour day or 10-hour day schedules must request leave, leave without pay or work an adjusted schedule to account for the applicable time difference for an 8-hour holiday.
- D. Participation in an alternative work schedule is a privilege, not a right, and may be changed at the discretion of the respective Division/Unit Director.

### **5.13.10 Management of Hours**

- A. Supervisors are responsible for monitoring arrival and departure times of all employees to ensure accurate records are maintained, and to minimize overtime and accumulation of arbitrary compensatory time.
- B. Non-Exempt Civilian Employees are not permitted to occupy their workstations before or after working hours or during meal periods without the prior approval of their supervisor. Supervisors are responsible for documenting the circumstances of each occurrence for which they have approved such a request. Employees may occupy a break or conference area during these non-work times.
- C. Non-Exempt Employees are required to accurately track (recording time to the exact minute) when they arrive and leave their work areas. Non-Exempt Employees who fail to correctly record Actual Work Time are subject to disciplinary action up to and including separation. Entries made on the Troop Communications Log or electronic records management system, Daily Activity Report, shall meet the requirements of this paragraph.
- D. Non-Exempt Employees must generally receive prior approval to work overtime. In unique or emergency situations, prior approval may not always be possible. Overtime worked in these instances must be reported to the supervisor as soon as possible. Non-Exempt Employees may be required to explain why overtime was necessary and why pre-approval was not possible. Whether authorized or not, all overtime work shall be accurately reported on the employee timesheet.

- E. Supervisors shall not ignore DPS-related work that Non-Exempt Employees perform on their own time. If a supervisor has notice or knowledge of such an occurrence, the supervisor is responsible for ensuring that the hours worked are reported.
- F. Overtime may be granted for emergencies, unanticipated assignments, or special projects which cannot be completed during normal work hours. Overtime should not generally be granted for Non-Exempt Employees when work should be completed during the workday.
- G. A method for monitoring all overtime worked is required of every DPS division and unit. Supervisors shall exercise control and ensure that Non-Exempt Employees are only performing work during authorized times.
- H. Time worked by Non-Exempt employees should be reviewed prior to the end of the Work Period (when possible) to determine if overtime may occur. The work schedules of Non-Exempt employees may be adjusted to prevent overtime work.
- I. Non-Exempt employees, who meet the Required Hours may be placed off duty by their supervisors to control the accumulation of compensatory time or paid overtime.

#### **5.13.11 Timesheet Procedures**

- A. All employees shall utilize the designated timesheet to accurately record all Actual Work Hours and Paid Leave Time.
- B. All employees shall submit their timesheet to their immediate supervisor for review and approval at the end of each 28-day period.
- C. Supervisors are responsible for carefully reviewing employee timesheets before approval to ensure the time and leave reported by an employee on his/her time sheet is accurate and matches the records maintained by the supervisor.
- D. Falsification of time records, including omission of hours worked, may result in disciplinary action.
- E. Exempt Employees complete time sheets to record leave taken during the 28-day period, the accrual of the Georgia Compensatory Time, and to comply with any applicable programmatic certification requirements.

#### **5.13.12 Record Keeping and Retention**

- A. Supervisors are responsible for maintaining accurate records of the Actual Work Hours and Paid Leave Time for each employee under their command.
- B. Employee time records shall be maintained by the Human Resources Division for three years, including the current year.
- C. The Human Resources Division is responsible for maintaining employee leave records (leave balances, accruals, etc.).