

SUBJECT:**Method of Compensating for Overtime****ORIGINATING DEPARTMENT:**Human Resources Office
Department: More Information**POLICY:**

It shall be the policy of the Board of County Commissioners that the compensation practices of the County are to be standardized and consistent with the Fair Labor Standards Act.

BACKGROUND

The Fair Labor Standards Act (FLSA) establishes a minimum wage and governs overtime pay, equal pay, record keeping and child labor standards for employees who are covered by the Act and who are not exempt from specific provisions. It is a federal law, enacted by Congress in 1938. The 1974 amendments extended the provisions of the FLSA to all state and local governments who were not covered as a result of the amendments of 1966. The U.S. Department of Labor, Wage and Hour Division is responsible for ensuring compliance with the Fair Labor Standards Act.

The purpose of this Administrative Regulation is to inform management staff and employee of FLSA requirements and the standard procedures to be followed.

Employer - Employee Relationship

In order for the FLSA to apply to a person engaged in work, which is covered by the FLSA, an employer-employee relationship must exist. An employment relationship requires an "employer" and "employee" and the act or condition of employment. The term "employee" under the FLSA includes all public agencies and the term "employee" includes individuals employed by a public agency. The FLSA clearly states that "employ" includes "to suffer or permit to work".

Public Employee Volunteers

The term "employee" does not include an individual who volunteers to perform services for a public agency, if:

- The individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered; and
- Such services are not the same type of services which the individual is employed to perform for such public agency.

Volunteers may be reimbursed for expenses, reasonable benefits and nominal fees, or a combination of all three.

As specific examples of permitted payments and benefits to volunteers, the County is allowed to take the following actions concerning volunteers:

1. Pay and reimburse a volunteer for tuition in order to attend special classes or training to learn about fire protection;

2. Reimburse a volunteer firefighter for out-of-pocket expenses incurred incidental to answering a call;
3. Reimburse volunteers for the actual cost of replacing clothes or equipment damaged in responding to a call;
4. Provide uniforms; and,
5. Include volunteers in a retirement fund, workers' compensation plan or a health or life insurance plan.

An individual may not be a volunteer for a public agency when the volunteer hours involve the same types of service which the individual is employed to perform for the same agency.

Exempt Employees

Employees considered to be in one of the following categories are exempt from the Fair Standards Act and are not compensated for working over 40 hours; executive, administrative or professional (including employees in certain computer job classifications). Exempt classifications are designated as such in the current County Classification and Pay Plan.

Exempt employees are compensated on a salaried basis, but are expected to observe the work hours and workweek schedules established for the department, division or office. The work schedule for an exempt employee is the work time necessary for accomplishing the expected program or project as determined by the department director.

An exempt employee is not to be charged leave for any absence from work of a period less than one full day.

Exempt employees below the level of division director may be compensated for responding to emergencies as requested by the division director and approved by the department director.

"Emergency" is defined as an unforeseen combination of circumstances that calls for immediate action. Furthermore, the emergency situation must be considered to be a threat to the public's safety or health.

All instances of exempt employees receiving compensation for emergency call outs shall be reported to the County Administrator or his/her designee.

The amount of compensation authorized is \$50.00 for each emergency call-out regardless of the duration of time spent.

Employees Eligible for Overtime Payment

All (employees not covered under the exempt status must be paid not less than one and one-half times his/her rate of pay for all hours worked over 40 in a work week. Non-exempt employees must receive approval by the department director or his/her designee before working overtime.

A workweek is a regular recurring period of 168 hrs. in the form of seven consecutive 24-hour periods. The workweek may begin on any day of the week and at any hour selected by the employer. The workweek can begin on different days and at different times for different employees or groups of employees. Overtime compensation must be paid in cash.

The County Administrator is authorized to approve the payment of overtime compensation; however, approval will depend upon the department director assuring the County Administrator that sufficient funds are available. The County Administrator is authorized in unusual circumstances to pay overtime for non-exempt employees.

Travel Time

The following guidelines apply in determining whether an employee's travel time is compensable. These guidelines apply to hourly employees only inasmuch as exempt employees are salaried.

1. Single Day Travel:

If an employee is authorized to travel outside the County to attend a seminar, workshop, etc., the travel time from Citrus County to the location in the morning prior to the employee's regular starting time and the travel time from the location back to Citrus County in the afternoon beyond the employee's regular ending time is considered as work hours. The employee shall be compensated at his/her regular rate of pay.

An adjustment in the employee's work schedule may be made (in that workweek only) in recognition of hours previously worked. (Note: This adjustment in the employee's work schedule shall not be made for a member of the bargaining unit.)

2. Overnight Travel:

Travel during the employee's regular workday is compensable and any work performed beyond the employee's regular schedule is considered work time. However, any time spent in travel outside of regular working hours as a passenger on an airplane, train, bus, automobile or driving an automobile is not considered as work time.

Minimum Wage

All covered employees must receive a minimum hourly wage not less than the current minimum rate mandated by the Fair Labor Standards Act. An employee, however, may be paid on a weekly, bi-weekly, monthly or some other basis as long as the employee receives the minimum wage for each hour actually worked.

Hours Worked

Includes all time that an employee is required to be on duty, on the employers premises, or at a prescribed workplace for the employer, and all times that the employee is "suffered or permitted" to work. Vacation and sick leave hours are not counted as hours worked even though they are paid hours. Holiday hours are counted as time worked for overtime purposes. Lunch breaks where the employee is completely relieved of his/her duties for at least 30 uninterrupted minutes are not counted as hours worked.

Record Keeping

The County shall keep records for each employee indicating:

1. Name of employee in full as used for social security record keeping purposes
2. Home address, including zip code
3. Date of birth, if under 19
4. Sex and occupation
5. Time of day and day of week on which the employee's workweek begins
6. Regular hourly rate of pay in any workweek in which overtime premium is due; basis of wage payment (such as \$5.00 hour)*
7. Daily and weekly hours of work*
8. Total daily or weekly straight time earnings*
9. Total additions to or deductions from wages paid*
10. Total wages paid each pay period*
11. Total premium pay for overtime hours
12. Date of payment and the pay period covered by payment

*for exempt employees, record keeping items indicated with an asterisk above can be replaced with information on the employee's total remuneration each pay period.

COUNTY PROCEDURES

All departments under the Board of County Commissioners will observe the following procedures:

Covered Employees

Time clocks will be used where provided, if practical. Where time clocks are used, all employees are to understand that no employees can "punch-in" another employee. Should this occur, both employees would be subject to severe disciplinary action. If time clocks are not used, standard forms are to be used as directed. Employees who work in the field and are unable to report at the beginning or end of the workday will carry their time sheet with them in order to keep a daily record of hours worked. The forms must be signed daily by the employee and weekly by the immediate supervisor.

Employees are required to use a minimum of thirty minutes each day for a lunch period at a time designated by the department director or division director.

A daily Sign-in/Sign-out Form is to be completed each day with the actual time that the employee:

- Begins work
- Stops for a lunch break
- Resumes work
- Ends work for a day

The Daily Sign-in/Sign-out Form must be signed daily by the employee and at the end of the workweek by the immediate supervisor. The total hours will be entered on the Division Time Summary Sheet and both forms will be submitted to the payroll office at the end of the pay period.

Overtime will be credited in fifteen-minute increments for computing time worked over 40 hours in a seven-day period.

Payment for overtime must be made only after 40 hours are actually worked in a workweek.

Exempt Employees Work Records

Departments do not need to keep the same detailed Daily Sign-in/Sign-out Forms for exempt employees as covered employees; however, the Division Time Summary must be used to report the total hours worked by exempt employees.

Exempt employees are not to be charged vacation or sick leave for absences less than one full workday. Each absence must, however, be reported and approved if determined necessary by the department director or his/her designee and a record kept of the period of time that the exempt employee is not actually on the job.

It is important that all department directors, division directors and supervisors understand how the Fair Labor Standards Act (FLSA) affects their operations. The use of employees must be closely reviewed to avoid any violations.

The effective date for this revised Administrative Regulation shall be January 1, 1999.

For additional information, contact the Human Resources Director.

FOOTNOTES AND REFERENCES TO RELATED AR'S: Supercedes: A.R. 7.10 dated February 5 1991