




Policy Title	<b>Hours of Work and Overtime</b>
Effective Date	July 1, 2025
Supersedes	Policy dated November 23, 2016
Approval	 Matthew A. Brown State Personnel Director
References	29 USC 2001, et. Seq. 29 C.F.R. 541, 553, 778, 785, 790 IC 4-1-2-1 IC 4-15-2.2.1 IC 4-15-2.2-10 IC 4-15-2.2-15 IC 4-15-2.2-39 31 IAC 5-7 31 IAC 5-8 Financial Management Circulars (FMC) 1.1, 1.2, 2.2, 2.3, 2.4, and 2.5 Remote Work Policy Time Reporting Policy

## PURPOSE

To define work hours for which compensation is required, establish overtime pay rates, and authorize appointing authorities to set hours of operation and work schedules for employees that meet operational needs.

## SCOPE

This policy applies to employees in the state civil service except law enforcement officers, Airfield Firefighters, or IDOC custody employees.

## POLICY STATEMENT

Regular attendance and punctuality are an important part of each state job regardless the location where the work is performed, and it is the policy of the executive branch of Indiana state government that determining scheduling needs and enforcing attendance requirements is best accomplished at the local or employing agency level. Appointing authorities shall determine work schedules necessary for the effective operation of the agency.

The standard work schedule for state employees is seventy-five (75) hours per biweekly pay period unless otherwise authorized by the State Personnel Director and State Budget Agency, in accordance with 31 IAC 5-7-8(b), or by Financial Management Circular.

**Overtime-eligible employees are prohibited from working overtime unless it is authorized in advance by management.** An employing agency's policy may authorize overtime in specified circumstances.

It is the State's policy to compensate overtime-eligible employees for all hours worked. Work schedules shall be managed to ensure staffing levels are appropriate for the workload, minimize overtime compensation, and avoid excessive overtime hours by individual employees. Overtime-eligible employees shall not be scheduled for nor work more than 40 hours in a calendar week nor more than 75 hours in a biweekly pay period without prior agency authorization.

Overtime-eligible employees shall:

- 1) Record all hours worked accurately, in the designated timekeeping system for their agency.
- 2) Record time daily if there is any deviation from the anticipated work schedule.

Overtime-eligible employees should not check or respond to work-related electronic messages while off-duty unless agency management has issued clear orders requiring off-duty follow-up action (e.g., emergency responders). Checking messages for the employee's own convenience or for trivial amounts of time (less than ten minutes daily) is not compensable.

Policies for compensating exempt employees in exceptional circumstances are set forth in 31 IAC 5-7 and Financial Management Circular 2.4.

Note: Statements herein do not apply to law enforcement officers, Airfield Firefighters, or IDOA custody employees (i.e., those covered by 29 USC 207(k), 29 C.F.R. 553.200 et seq., 31 IAC 5-7-8, or FMC 2.4. Other specific and unique policies apply to the foregoing classifications.

## DEFINITIONS

**Exempt Employees:** Those employees who are not covered by the overtime pay and minimum wage provisions of the Fair Labor Standards Act and/or applicable state rules and policies on premium overtime pay. They are also known as overtime ineligible employees.

**Overtime:** Compensable hours worked by an overtime-eligible employee in excess of thirty-seven and one-half (37.5) hours in a week.

**Overtime-eligible Employees:** Those employees who are covered by the overtime pay and minimum wage provisions of the Fair Labor Standards Act and/or applicable state rules and policies on premium overtime pay. They are also known as non-exempt employees.

**Regular hourly rate:** An employee's regular hourly rate shall be calculated by dividing their base biweekly salary by seventy-five (75).

**Straight Overtime:** Hours worked by an overtime-eligible employee in excess of thirty-seven and one-half (37.5) hours in a work week but less than or equal to forty (40) hours in a work week and for which compensation is at the employee's regular rate.

**Premium Overtime:** Hours worked by an overtime-eligible employee in excess of forty (40) hours in a work week and for which compensation is at a time and one-half rate.

**Work Schedule:** An employee's assigned hours of work. Full-time schedules shall equal seventy-five (75) hours in each biweekly pay period unless otherwise approved by the State Personnel Director and State Budget Agency. Overtime-eligible employees shall not be scheduled for nor work more than 40 hours in a calendar week without authorization. A Work Schedule that deviates from the standard of 7.5 hours of work on each of 10 weekdays in a biweekly pay period is an Alternative Work Schedule.



## RESPONSIBILITIES

### Exempt Employees are responsible for:

- Performing all assigned work;
- Working all scheduled hours and/or complying with notice requirements for requesting use of leave; and
- Accounting for a minimum of 75 hours of work and/or use of available, appropriate, approved leave in each biweekly pay period, in the designated timekeeping system for their agency, if employed on a full-time basis.

### Overtime-eligible Employees are responsible for:

- Performing all assigned work;
- Reporting all hours worked in the designated timekeeping system (Note: The employer is not liable if the employee fails to follow the reasonable, established process for reporting off-duty work.);
- Working all scheduled hours and/or complying with notice requirements for requesting use of leave;
- Taking meal periods as scheduled or promptly notifying supervisor if the scheduled meal period was shortened to less than 30 consecutive minutes by assigned work;
- Not checking or responding to work-related electronic messages (more than a de minimis amount) while off-duty unless agency management has issued clear orders requiring off-duty follow-up action (e.g., emergency responders);
- Obtaining authorization before working hours in excess of the regularly established work schedule;
- Not working unauthorized overtime; and
- Performing any overtime work for which the employee has volunteered or been assigned.

### Employer is responsible for:

- Planning and managing the work and work schedules to minimize the need for overtime hours and payment;
- Communicating the agency's policy containing prior authorization for overtime in specified foreseeable and exigent circumstances;
- Exercising control to not permit unauthorized work to be performed by an overtime-eligible employee;
- Clearly identifying which electronic messages require follow-up action by overtime-eligible employees who are off-duty and which messages do not require off-schedule action by such employees;
- Assigning overtime work in the manner most advantageous to the State and consistent with the requirements of state employment and the public interest; and, when weighing whether the public interest is paramount, giving consideration to the employee's requests;
- Offering, in advance, compensatory time off as the alternative means of compensation for voluntary overtime whenever compensatory time off is in the best interest of the State; and making additional monetary payments (rather than offering compensatory time off) when that is in the best interest of the State;
- Ensuring employees have reasonable opportunities to use compensatory time off;
- Making payment for hours earned as compensatory time off for overtime work, if



compensatory time off is not used within the quarter succeeding the quarter in which it is earned unless otherwise approved by the State Personnel Director and State Budget Agency;

- Making reasonable efforts to secure volunteers for appropriate assignments; however, employees should not perform overtime duties of a classification if the employee's salary is above the maximum of the pay range of the classification where the duties are needed unless such work has been approved by State Personnel Department and State Budget Agency;
- Paying overtime-eligible employees who work overtime without approval but taking corrective action(s) (including discipline) to prevent recurrence;
- Taking corrective action (including discipline) against a manager who permitted unauthorized work or discouraged overtime-eligible employee(s) from reporting overtime work;
- Prohibiting overtime-eligible employees from volunteering unpaid time to perform (for the employing agency) the same type of services which the individual is employed to perform;
- Verifying the accuracy of the reporting of time worked;
- Complying with overtime provisions in FMC 1.2 Fiscal Spending Plans and FMC 2.2 Compensation and Classification Review.
- Submission of a spending plan to State Budget Agency in accordance with FMC 1.2 which includes anticipated overtime expenditures and is amended as needed to address emergency overtime expenditures;
- Submission through the Compensation & Classification Review (CCR) process of any requests to pay straight-rate overtime to normally exempt employees, including switching the workgroup to SOIEX75OVT for those exempt employees authorized to receive straight-rate overtime and returning those employees to workgroup SOIEXEMPT upon conclusion of the authorization;
- Referring to the agency human resources office any employee who has requested an exemption from overtime assignments due to a disability or pregnancy, childbirth, or related medical condition so that the agency human resources office can engage the employee in an interactive process and obtain documentation to determine whether reasonable accommodation is available which would enable the employee to perform the essential functions of the job; and
- Consistently applying this policy.

## GUIDELINES AND OTHER REQUIREMENTS

### Planning and Managing Work

Overtime-eligible employees are not entitled to work overtime hours but are only entitled to payment if such compensable hours are, in fact, worked. Therefore, management is responsible for establishing and adjusting work schedules in a manner that meets operational needs and minimizes the need for overtime work. This may include actions such as:

- Assigning staff to alternative work schedules that better meet operational needs or minimize overtime liability, for example, by allowing longer blocks of time for travel or projects on specific days.
- Making temporary work schedule adjustments that better meet operational needs or minimize overtime liability.
  - Work in excess of 7.5 hours in a day is not overtime. Overtime is calculated on



work hours performed in a calendar week, not a calendar day.

- If an overtime-eligible employee works 40 hours in one week of a pay period and operational needs allow, then the employee's work schedule should be adjusted to limit employee to 35 hours in the other week of that pay period. Straight rate must be paid for 75 hours that pay period.
- An entitlement to additional compensation is created for an overtime-eligible employee if the employee works 40 hours in one week of a pay period and 37.5 hours in the other week of that pay period. Straight rate must be paid for hours worked between 37.5-40 hours for a total of 77.5 hours that pay period.
- An entitlement to additional compensation is created for an overtime-eligible employee if the employee works 45 hours in one week of a pay period and 37.5 hours in the other week of that pay period. Straight rate must be paid for hours worked between 37.5-40 hours, and premium rate must be paid for 5 hours that pay period.
- Additional compensation is due for total hours worked by an overtime-eligible employee, is in excess of:
  - 40 hours in a calendar week; and
  - 75 hours for the biweekly pay period
- Substituting additional hours worked in a calendar week to reduce the amount of leave used.
- The State must not permit work for which it did not intend to pay. If overtime is not approved, do not allow performance of the work.
- Counseling (and if necessary discipline) must be imposed to correct the behavior of overtime-eligible employees who ignore prohibitions against off-duty work or supervisors and managers who allow off-duty work without having proper authorization. Even when the prerequisites were not met (i.e., off-duty work is performed without approval or even contrary to instructions), overtime that was worked will be compensated.

Agencies may develop policies and procedures for making overtime assignments. Such policies and procedures may address considerations relevant to the agency or worksite such as any limitations on total overtime within specified periods of time, provisions allowing refusals of assignments, allowing employees to make arrangements with qualified co-workers to split or share overtime assignments, and procedures for requesting volunteers or mandating assignments.

### Determination of "Hours Worked"

#### Travel Time

**Home to Work Travel:** An overtime-eligible employee who travels from home before the regular workday and returns to their home at the end of the workday is engaged in ordinary home-to-work travel, which is not work time.

**Home to Work on a Special One-Day Assignment in Another City:** An overtime-eligible employee who regularly works at a fixed location in one city is given a special one-day assignment in another city and returns home the same day. The time spent traveling to and returning from the other city is work time, except that the employer may deduct or not count that time the employee would normally spend commuting to the regular work site.

**Travel That is All in a Day's Work:** Time spent by overtime-eligible employees in travel as part of their principal activity, such as travel from job site to job site during the workday, is work time and must be counted as hours worked.

**Travel Away from Home Community:** Travel that keeps an overtime-eligible employee away from home overnight is clearly work time when it cuts across the employee's workday. The time is not only hours worked on regular working days during normal working hours but also during corresponding hours on nonworking days. The United States Department of Labor's Wage and Hour Division does not consider as work time that time spent in travel away from home outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile.

#### Training Time

Attendance by overtime-eligible employees at lectures, meetings, training programs, and similar activities, given by the employer or under the employer's auspices, is counted as working time unless all the following four criteria are met:

- 1) Attendance is outside of the employee's regular working hours;
- 2) Attendance is, in fact, voluntary; the employee's job;
- 3) The course, lecture, or meeting is not directly related to the employee's job; and
- 4) The employee does not perform any productive work during such attendance.

If an employee voluntarily attends lectures, training sessions, or courses offered by an independent purveyor of learning, on the employee's own initiative, that voluntary attendance is not counted as hours worked, even if directly related to the job or paid for by the employer. Review provisions on Learning and Development in the [W.H.O.L.E. Policy](#) for a description of learning activities relevant to an employee's job that might count as work hours; however, compensable time spent on voluntary learning and development activities should not unduly interfere with or become a substitute for performance of assigned duties.

#### On-call Time

Time spent "on call" (not at the duty station and "waiting to be engaged") can effectively be used primarily for the employee's own purposes. Simply requiring the employee to provide contact information, refrain from using alcohol, or respond within a reasonable time is not overly controlled by nor primarily for the employer's business. On-call time is not compensable. If the employee is required to perform actual work during an on-call period, time spent working is compensable (rounded to the nearest quarter-hour). Travel to or from an emergency call-out assignment that occurs outside an employee's regular schedule should be compensated (rounded to the nearest quarter-hour).

#### Sleeping Time and Certain Other Activities

An overtime-eligible employee who is required to be on duty for less than 24 hours is working even though they are permitted to sleep or engage in other personal activities when not busy. An overtime-eligible employee required to be on duty for 24 hours or more may agree with the employer to exclude from hours worked bona fide regularly scheduled sleeping periods of not more than 8 hours, provided adequate sleeping facilities are furnished by the employer, and the employee can usually enjoy an uninterrupted night's sleep. No reduction is permitted unless at least 5 hours of uninterrupted sleep is taken. Examples: firefighting schedules, travel chaperoning students.



De minimis Time (limited; considered irrelevant)

Checking email for one's own convenience or for a trivial amount of time (such as ten minutes daily) is not compensable.

Break Time

Breaks are not required, but if they are provided: A break of less than 20 minutes with no work performed is compensable as part of the regular work day. Such breaks can be scheduled if necessary to ensure proper coverage and keep offices open for the public and to monitor usage. Nursing Mothers are allowed breaks to express milk for their newborns.

Meal Time

Meal periods are not required, but if they are provided: Non-exempt employees who are not fully relieved of all duties for at least 30 consecutive minutes must be compensated for the entire meal period.

Holidays and Leave Time

Holidays and leave time are not counted as hours worked in the calculation toward determining whether or not a premium pay rate applies in a particular calendar week work period.

Off-duty Communications Guidelines

- The ability to be constantly connected by mobile or other electronic devices requires both overtime-eligible employees and supervisors/managers to monitor off-duty, work-related communications and exercise restraint to avoid the performance of unauthorized overtime work. **Overtime-eligible employees should not check or respond to work electronic messages while off-duty unless management has issued clear orders requiring off-duty follow-up** (e.g., emergency responders).
- Work that is necessary, time sensitive, and substantial will be compensated. For example, a supervisor-directed official call-back assignment, requiring immediate performance of a substantial task, includes authorization for overtime compensation or anticipation of a work schedule adjustment.
- Not every response to a phone call or follow up on an email is compensable work activity, such as communications that are brief, merely informational, and plainly do not require an immediate response. Overtime-eligible employees checking messages for their own convenience or for trivial amounts of time (less than 10 minutes daily) is not compensable.
- Overtime-eligible employees shall document (date, time, description) and report substantial, off-duty, remote access and must follow the employing agency's process for seeking overtime compensation (e.g., submission of overtime reports, entries in the timekeeping system used by the agency).

Family-Medical Leave (FML) Absences from Overtime Assignments

If an employee cannot perform a mandatory overtime assignment due to the reason for which the employee has approval for FML, then the number of hours declined for the overtime assignment shall be charged against the employee's balance of FML; however, not employment consequences shall be imposed for not performing the overtime assignment.

#### Recordkeeping

Employees must follow the employing agency's process for seeking overtime compensation (e.g., submission of overtime reports, entries in the timekeeping system used by the agency). Courts have held that an employer is not liable if the employee fails to follow the reasonable, established process for recording and reporting off-duty work.

#### Enforcement

Employees not properly compensated for overtime work may file a civil service complaint following the procedure at IC 4-15-2.2-42

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