



# DEPARTMENT OF ADMINISTRATION

## Enterprise Policy

OMB-OVERTIME-2019

OFFICE OF MANAGEMENT AND BUDGET

Overtime Policy

Office of Management and Budget

Date of Last Revision 06/05/19

(401) 574-8430

### 1. Purpose

- a. The purpose of this policy is to establish overtime approval processes and procedures to ensure that the use of overtime work is kept to a minimum consistent with the needs and requirements of sound and orderly administration of State government.

### 2. Applicability

- a. The overtime policy applies to non-exempt employees in all agencies under the Governor's jurisdiction. If the terms of an approved labor agreement conflict with the provisions of this policy, the terms of the labor agreement will apply to employees covered by that agreement. If a labor agreement is silent on overtime, this policy applies to the employees covered by that labor agreement.

### 3. Definitions

- a. **“Appointing authority”** Pursuant to R.I. Gen. Laws § 36-3-3, the person or group of persons having the power by virtue of the constitution, a state statute, or lawfully delegated authority to make appointments.
- b. **“Authorized designee”** Person who is authorized by the appointing authority of the agency to approve overtime requests.
- c. **“Blanket approval”** The ability to authorize multiple individuals' overtime requests without going through the process set forth in Section 9 of this policy.
- d. **“Exempt employee”** Employees primarily performing duties that are not subject to overtime provisions of the Fair Labor Standards Act (FLSA) and are ineligible to earn overtime pay.
- e. **“Fair Labor Standards Act” or “FSLA”** The Fair Labor Standards Act of 1938, as amended 29 U.S.C. 201, et seq., is a federal law which establishes overtime compensation eligibility. The FLSA requires that employees be paid at least one and one-half times their regular rate of pay for all hours worked over 40 hours in a workweek, unless they are excluded or exempt from overtime provisions.
- f. **“Hours worked”** Total hours worked in an employee's standard workweek. Pursuant to R.I. Gen. Laws § 36-4-63, planned vacation days, personal days, jury duty, and leave for death in the employee's immediate family shall be counted as hours worked for the purpose of calculating overtime.

- g. **“Non-exempt employee”** An employee covered by the Fair Labor Standards Act and all of the overtime provisions under the Act.
- h. **“Overtime”** Pursuant to R.I. Gen. Laws § 36-4-63, overtime shall mean the performance of hours of work in any workweek which are in excess of an employee's standard workweek schedule.
- i. **“Regular rate of pay”** The equivalent of the hourly rate actually paid to the employee for the normal, non-overtime workweek which includes all remuneration for employment paid to, or on behalf of, the employee, in accordance with 29 C.F.R. § 778.108-9.
- j. **“Workweek”** In accordance with 29 CFR § 778.105, an employee's workweek is a fixed and regularly recurring period of 168 hours-seven consecutive 24-hour periods. It need not coincide with the calendar week but may begin on any day and at any hour of the day. Different workweeks may be established for different employees or groups of employees. Averaging of hours over two or more weeks is not permitted.
- k. **“Standard workweek”** The standard workweek is thirty-five (35) or forty ( 40) hours, whichever is specified in the pay plan.

#### **4. Procedures for Compliance**

- a. The appointing authority shall limit hours worked by the employee to the State's established standard workweek except in those cases where additional hours of work have been deemed necessary. Each appointing authority shall develop and submit to the Division of Human Resources and the Office of Management and Budget detailed overtime authorization and approval procedures that incorporate the requirements of Section 9 of this policy. Agencies shall submit their established procedures by October 15, 2019 and upon any modification thereafter. Beginning in fiscal year 2020, each agency shall produce and submit to the Office of Management and Budget quarterly reports of overtime expenditures pursuant to Section 10 of this policy with their quarterly financial reports. The Office of Internal Audit shall be able to access records of overtime approvals and payments and have the power to audit compliance with this policy.

#### **5. Repercussions for Noncompliance**

- a. A continued pattern of noncompliance with this policy may result in a rescission of the agency's authority to approve overtime pay.

#### **6. Authority**

- a. This policy is promulgated by the Office of the Personnel Administrator pursuant to the authority granted in R.I. Gen. Laws § 36-4-43. The State Budget Officer has the authority to exercise budgetary control over all state departments and agencies pursuant to R.I. Gen. Laws § 35-3-1.

#### **7. Eligibility**

- a. Determinations on FLSA exemption status shall be made by the Division of Human Resources/Office of the Personnel Administrator at the time a new job title/classification is established or when there are changes to the job title/classification and/or compensation that may affect their FLSA status.

#### **8. Computation of Overtime Hours**

- a. Overtime shall mean the performance of hours of work, as defined in 29 C.F.R. § 785, in any workweek which are in excess of a non-exempt employee's standard workweek schedule or when requested by the employer.
  - (i.) Hours which are paid for but not actually worked except planned vacation days, personal days, jury duty, and leave for death in the employee's immediate family shall not be counted as hours worked nor shall they otherwise be used in computing overtime compensation.
  - (ii.) Sick time and other unscheduled time off should not count as hours worked and cannot be reclassified to hours worked for purposes of computing earned overtime.
  - (iii.) For pay rules that apply to non-exempt employees when traveling on State business, please refer to the Non-Exempt Travel Policy.

## **9. Authorization and Approval of Overtime Work**

- a. Each agency shall develop a clear written procedure for requesting and approving overtime consistent with the following requirements:
  - (i.) Employees are not authorized to work overtime unless the overtime is approved by their supervisor or manager. When a supervisor deems it necessary for an employee or employees to work overtime for the good of the operations, they must submit an overtime work request to the appointing authority or authorized designee at the agency. All overtime work requests shall contain a clear justification for and a type of overtime, and they must be authorized in advance by the appointing authority or authorized designee. When overtime work is authorized by an authorized designee, the appointing authority must be notified.
    - 1. In case of operational emergency or instances where obtaining pre-approval for overtime use is not possible or is impractical, retroactive approvals by the appointing authority or authorized designee are allowed. However, retroactive approvals shall be submitted within three (3) business days, or as soon as operationally possible, whichever is the shorter period.
  - (ii.) Each instance of overtime work must be approved individually- blanket approvals are not permitted.
  - (iii.) If overtime spending exceeds the quarterly budgeted amount for that period, an agency's Chief Financial Officer (CFO) or designee sign off on the approved overtime in the subsequent quarter is required to ensure that the overtime is necessary for continued operation of the agency.
  - (iv.) No employee should be authorized or required to work more than 16 consecutive hours, unless special authorization is obtained with a detailed justification for approved overtime. Employees must take breaks as required by R.I. Gen. Laws 28-3-14.

## **10. Overtime Reporting**

- a. Each agency shall track the overtime by type and produce quarterly reports that will contain the following information:

(i.) Approved and paid overtime by the type:

1. Planned
2. Leave backfill
3. Emergency (not State closure)
4. Seasonal activity
5. Miscellaneous

(ii.) Approved and paid overtime by job classification and base pay.

- b. Each agency shall produce and provide to the Office of Management and Budget quarterly reports of overtime expenditures with comparisons to the budgeted amount and justifications for significant deviations. Overtime reports shall be submitted along with the quarterly financial reports that are prepared in accordance with R.I. Gen. Laws§ 35-1-5.

### 11. Overtime Recordkeeping

- a. Records of overtime approvals and payments are required to be kept for each employee in accordance with the State's records retention schedule. The appointing authority is responsible for making such records available for review to the Office of Internal Audit. Pursuant to R.I. Gen. Laws§ 35-7.1-6, the Office of Internal Audit shall be able to access overtime reports and have the power to audit compliance with this policy, including review of overtime requests and approvals at any time.

### 12. Signatures



Director of Administration



Date