



DEPARTMENT OF MANAGEMENT SERVICES
DIVISION OF STATE HUMAN RESOURCE MANAGEMENT
POLICY GUIDELINE

STATE PERSONNEL SYSTEM

SUBJECT:

General Policies On Workdays, Work Periods, Work Schedules, and Accommodations for Daylight Saving Time (DST)

POLICY GUIDELINE: *HRM #2016-001*

EFFECTIVE DATE:

*Revised December 27, 2021
Revised March 26, 2018
(Original issued February 25, 2016)*

SUPERSEDES: *N/A*

STATUTES/RULES/REGULATIONS/LAWS:

*The Fair Labor Standards Act of 1938 (FLSA)
29 Code of Federal Regulations (C.F.R.) § 553.201, Statutory provisions: section 7(k)
29 C.F.R. § 553.221(b), Compensable hours of work
Section 110.1522, Florida Statutes (F.S.), Model rule establishing family support personnel policies
Section 110.219, F.S., Attendance and leave; general policies
Rule 60L-34.002, Florida Administrative Code (F.A.C.), General Agency Responsibilities
Rule 60L-34.003, F.A.C., Work Schedules
Rule 60L-34.0044, F.A.C., Special Compensatory Leave
Rule 60L-34.0051, F.A.C., Family Supportive Work Program*

FORMS: *N/A*

ADDITIONAL REFERENCE MATERIALS: *N/A*

ISSUE:

To clarify the appropriate setting of work periods, extended work periods, and work schedules and the scheduling and leave options available for agencies with employees who work night shifts during time changes on or off of DST.

BACKGROUND:

For reference purposes, the State Personnel System (SPS) uses the term “included” with respect to employees who are covered by the overtime provisions of the Fair Labor Standards Act (FLSA) and “excluded” for those who are not. Employees in the Career Service, the Selected Exempt Service, and Other Personal Services may be included or excluded, as determined by the duties of their respective position. Senior Management Service employees are all excluded.

The SPS uses a variety of terms that are related to scheduling employees, but which have distinct meanings as follows:

- **“Workday”** is defined pursuant to subsection 110.219(1), F.S.: “The workday for each full-time state employee shall be 8 hours or as otherwise justified by the agency head.”
- **“Work period”** is the recurring period that controls employees’ hours of work, hours of pay, leave accrual, leave use and, where applicable, establishes the threshold for included employees to earn overtime (also referred to as “FLSA Period”). For excluded employees, the work period is the same as their respective pay period (either biweekly or monthly). For included employees, the work period is either:
 - a **“Workweek”**, which consists of 40 hours in a period of seven consecutive calendar days and when included employees exceed this 40-hour period, overtime pay is earned. For operational purposes, the SPS workweek runs from 12:00 a.m. on Fridays through 11:59 p.m. on Thursdays (midnight to midnight).

or

 - an **“Extended work period”**, which is used in lieu of the workweek to manage overtime for certain eligible included employees, pursuant to specific public sector provisions in the FLSA. Extended work periods begin at 12:00 a.m. on Fridays and end at 11:59 p.m. on Thursdays (midnight to midnight). Currently, the SPS utilizes extended work periods that span either two or four workweeks. Pursuant to the FLSA, agencies may establish an extended work period for eligible included positions in the CS, SES, or OPS, in consultation with the Department.

Note: Overtime for a full-time and a part-time employee is calculated based on the same established threshold of hours physically worked (i.e., the 40-hour workweek or the number of hours in a full-time employee’s extended work period which could be 80, 160, 170, or 192 hours), regardless of their position’s Full-Time Equivalency (FTE).

- **“Work schedule”** are the hours regularly assigned to employees per work period and consists of either:
 - a **“standard work schedule”** comprised of five eight-hour workdays (with each workday beginning and ending on the same calendar day) for a total of 40 hours per workweek. This is the schedule to which employees default if no flexible work schedule, reduction in FTE to the position, or extended work period (if applicable) has been assigned. In such cases employees are accountable for exactly eight hours of work for every established workday in the workweek, for a total of 40 hours.

or

 - a **“flexible work schedule”** requiring authorization to deviate from the standard work schedule and typically totaling 40 hours per workweek for full-time employees. Deviations may include weekend workdays, workdays that start on one day and end on the next day and workdays that are more or less than eight hours each. Additionally, a flexible work schedule may be required under an extended work period if the number of hours per workweek varies (which may average 40 hours) or is constantly greater than 40 hours.

The work schedule assigned to the employee (whether standard or flexible) will become the **regular work schedule** that the employee is normally required to work. Therefore, as a general rule, work schedules are intended to be “permanent” (i.e., once established they

should not be arbitrarily changed unless business needs change or the agency approves an accommodation to meet an ongoing employee need).

Note: The “Shift Code” displayed on the People First “Org Management” tile, “Maintenance” screen under “Position Details” and then “Position Attributes” may be adjusted based on the FTE to permanently establish a default reduced regular work schedule [e.g., selecting “PT_0.50 work schedule” automatically adjusts the regular work schedule to 20 hours per workweek (4 hours per day, Monday – Friday)]. This option is ONLY available for FTEs of 0.25, 0.50, and 0.75. If the employee’s FTE changes after the initial setup, this code must be updated accordingly. Other regular work schedules for part-time employees will require an adjustment to the People First Flexible Work Schedule screen.

Additionally, the State of Florida observes DST which can alter the number of actual hours that occur during employees’ work schedules. DST starts on the second Sunday of March and ends on the first Sunday of November, with all time changes taking place at 2:00 a.m. local time. At 2:00 a.m. on the second Sunday of March, it instantly becomes 3:00 a.m. (spring forward) which causes employees on a normal eight-hour shift to be scheduled for seven hours (one hour less than their established shift). At 2:00 a.m. on the first Sunday of November, it instantly becomes 1:00 a.m. (fall back) which causes employees on a normal eight-hour shift to be scheduled for nine hours (one hour more than their established shift).

QUESTION AND ANSWER:

Question 1:

What are the parameters for establishing work periods and extended work periods?

Answer:

The FLSA [§ 207(a)(1) and (k), Maximum hours] and [29 C.F.R. § 553.201, Statutory provisions: section 7(k)] establishes the 40-hour workweek as the standard work period for determining overtime for included employees and exempts certain employees from the provision. Included employees working in fire protection and law enforcement (including security personnel in correctional institutions) are allowed to have extended work periods up to 28 days and 212 hours (fire protection) or 171 hours (law enforcement) that may not equate to a 40-hour workweek. Under Rule 60L-34.003, F.A.C., extended work periods are subject to approval by the Department of Management Services. Additionally, extended work periods may require consultation with the unions depending on the requirements of the applicable collective bargaining agreement. Furthermore, the agency’s control of overtime, staffing ratios, and other scheduling issues that occur during extended work periods should be carefully managed in conformance with the applicable collective bargaining agreement.

The People First system accommodates specific extended work periods as established by state policy; therefore, agencies should select an extended work period structure that is already supported by the system. Additionally, the system does not verify eligibility for extended work periods; therefore, the agency is responsible for compliance with the FLSA and state rules when assigning extended work periods in the system.

Note: The FLSA does not regulate work periods for excluded employees, which is why the FLSA work period for excluded employees is typically their normal pay period (biweekly or monthly).

However, agencies are not precluded from assigning extended work periods to excluded employees if it addresses specific operational needs.

Question 2:

What are the parameters for establishing work schedules and workdays?

Answer:

Work schedules for all full-time employees (whether included or excluded) are set around the 40-hour workweek standard to ensure equitable calculation of contract hours used for determining leave accruals, leave use, leave without pay, the number of paid hours required to cover insurance premiums, and many other human resource functions. All hours physically worked and leave used each workday within the work schedule must be recorded in the People First system on the actual date the hours were worked or taken off (including workdays that begin on one calendar day and end on another) to ensure accuracy of records. For example, employees working a shift that starts at night on one calendar day and extends into the morning of another calendar day, must record the hours on the calendar days the work occurred. With respect to included employees, it is critical for legal compliance and fiscal oversight (including overtime calculations) that all work schedules be managed over the 40-hour workweek or the approved extended work period in accordance with the FLSA. This requirement applies, whether the included employee is on a standard work schedule or a flexible work schedule. By ensuring the appropriate work schedules are assigned to employees and that all hours worked and leave used each workday are recorded on the actual date they occurred, the SPS can maintain accurate human resource records for each work period and comply with the FLSA.

Some flexible work schedules require that the employee enter the schedule on the appropriate screen in the People First system in order to obtain approval and for it to go in to effect (i.e., have the flex schedule control the number of contract hours the employee must account for on each established workday). Once hours are entered and saved on the timesheet, the flexible work schedule cannot be changed for that work period.

In sum, the parameters for establishing flexible work schedules (i.e., a schedule that deviates from the standard 40-hour workweek and/or includes weekend workdays) are as follows:

- Job announcements for vacant positions should clearly state if a flexible work schedule is a condition of employment.
- In accordance with Rule 60L-34.003(1), F.A.C., the agency must give written notice and abide by the requirements of any applicable collective bargaining agreement before imposing a flexible work schedule on an incumbent employee.
- In accordance with section 110.1522, F.S., and Rule 60L-34.0051(2), F.A.C., approval of an employee request for a flexible work schedule under the provisions of the Family Supportive Work Program must not impact the ability for the work of the position to be accomplished in an effective and efficient manner. Consequently, while agencies are encouraged to give full and fair consideration to these requests, they should not approve flexible work schedules or part-time employment that would negatively impact operations.

Once established, the flexible work schedule becomes the employee's regular work schedule and sporadic manipulation should be avoided. Additionally, this type of schedule generally has

implications to aspects of employee life outside of work, regardless of whether it was imposed or voluntarily adopted. For example, transportation options, child care arrangements, scheduling of appointments, school attendance, etc., may all be impacted by the employee's flexible work schedule. Consequently, it is critical that employees be given adequate notice when a flexible work schedule becomes a requirement, must be changed, or must be revoked.

In general (and in addition to adhering to the terms of any applicable collective bargaining agreement), agencies should always strive to proactively communicate with employees to help them effectively prepare for any required change to their regular work schedule, especially when transitioning to or from a flexible work schedule.

Question 3:

What options do agencies have to accommodate employees who work during a time change?

Answer:

In order to comply with the FLSA [29 C.F.R. § 553.221(b), Compensable hours of work], included employees must be credited on their timesheet with all hours physically worked. In Rule 60L-34.002, F.A.C., the state extends this requirement to record all hours worked to excluded employees. If agencies have employees whose schedules include working during the normal 2:00-3:00 a.m. hour on the date of a time change, agencies should advise employees prior to their shift and in writing (in accordance with applicable collective bargaining agreements) as follows:

Spring Time Change (DST causing a shorter shift)

- Start work an hour prior to the beginning of, or leave work an hour after, their normal shift; or
- Use an hour of annual leave or compensatory leave (the type of leave may be determined by applicable substitution procedures in Rule 60L-34.0044(3), F.A.C., or the applicable collective bargaining agreement); or
- Work an extra hour, with supervisory approval, on another day during the work period (as long as the employee is not charging leave on that day which would be offset with the extra hour worked).

Fall Time Change (Standard Time causing a longer shift)

- Start work an hour later, or end their shift an hour early (on the day of the time change or another day during the work period), if minimum staffing levels can be maintained that are not detrimental to operations; or
- Work the additional hour, which could cause overtime for included employees, regular compensatory leave earned for excluded career service employees, an offset with leave during the work period, or extra hours for excluded selected exempt service and senior management service employees.

Note: Employees who are on-call for the entire day on the date of a fall time change are only able to record 24 hours of on-call in People First. Therefore, the additional hour of on-call should be

paid using the People First Additional One-Time Payments screen. The payment should also be noted in the comments section of the timesheet.

Question 4:

Should flexible work schedules be adjusted during the work period of a time change?

Answer:

No. Flexible work schedules should not be altered in People First to account for a time change. Keeping the normal schedule allows employees to:

- Use leave on the date of the time change in the spring; or
- Work an extra hour another day in the work period in the spring (see consideration in Question 2); or
- Record an extra hour worked on the day of the time change in the fall.

APPLICABLE STATUTORY AND RULE CITATIONS:

The Fair Labor Standards Act of 1938

<https://www.dol.gov/whd/regs/statutes/FairLaborStandAct.pdf>

29 C.F.R. § 553.201, Statutory provisions: section 7(k)

(a) Section 7(k) of the Act provides a partial overtime pay exemption for fire protection and law enforcement personnel (including security personnel in correctional institutions) who are employed by public agencies on a work period basis. This section of the Act formerly permitted public agencies to pay overtime compensation to such employees in work periods of 28 consecutive days only after 216 hours of work. As further set forth in §553.230 of this part, the 216-hour standard has been replaced, pursuant to the study mandated by the statute, by 212 hours for fire protection employees and 171 hours for law enforcement employees. In the case of such employees who have a work period of at least 7 but less than 28 consecutive days, overtime compensation is required when the ratio of the number of hours worked to the number of days in the work period exceeds the ratio of 212 (or 171) hours to 28 days.

29 C.F.R. § 553.221(b), Compensable hours of work

Compensable hours of work generally include all of the time during which an employee is on duty on the employer's premises or at a prescribed workplace, as well as all other time during which the employee is suffered or permitted to work for the employer. Such time includes all pre-shift and post-shift activities which are an integral part of the employee's principal activity or which are closely related to the performance of the principal activity, such as attending roll call, writing up and completing tickets or reports, and washing and re-racking fire hoses.

Section 110.1522, F.S., Model rule establishing family support personnel policies

The Department of Management Services shall develop a model rule establishing family support personnel policies for all executive branch agencies, excluding the State University System. "Family support personnel policies," for purposes of ss. [110.1521-110.1523](#), means personnel policies affecting employees' ability to both work and devote care and attention to their families and includes policies on flexible hour work schedules, compressed time, job sharing, part-time employment, maternity or paternity leave for employees with a newborn or newly adopted child, and paid and unpaid family or administrative leave for family responsibilities.

Subsection 110.219(1), F.S., Attendance and leave; general policies

The workday for each full-time state employee shall be 8 hours or as otherwise justified by the agency head.

Rule 60L-34.002, F.A.C., General Agency Responsibilities

Each agency shall ensure compliance with Section 110.219 of the F.S., and this chapter as follows:

- (1) Monitor hours worked by employees to ensure proper compensation.
- (2) Monitor overtime to ensure compliance with the FLSA.
- (3) Maintain accurate records of attendance, leave, and overtime worked and compensated.

Rule 60L-34.003, F.A.C., Work Schedules

(1) An agency may place an employee on a permanent regular schedule of more or less than an eight-hour workday. Before implementing changes to the regular work schedule, agencies shall give written notice to all affected employees, with attention given to requirements of collective bargaining agreements.

(2) The Department may approve an extended work period under the FLSA.

Rule 60L-34.0044(3), F.A.C., Special Compensatory Leave

Upon prior notice, an agency may compel the use of all or part of an employee's accumulated special compensatory leave credits based on agency needs, provided such usage requirement is in accordance with any collective bargaining agreement provisions. An agency may also require an employee to use accumulated 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.

Rule 60L-34.0051, F.A.C., Family Supportive Work Program

(1) Agencies are encouraged to exercise their authority under the Family Support Personnel Policies Act to balance employees' abilities to work and to devote care and attention to their families.

(2) Agencies may approve flexible work schedules to assist employees in meeting family needs,

provided that work can be accomplished in an effective and efficient manner.

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