



DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

POLICY 1.25 HOURS OF WORK

APPLICATION:

Classified Employees

Mandatory Breaks for Nursing Mothers: All Employees

PURPOSE:

This policy provides guidelines for agencies to schedule reasonable and flexible work hours for employees while providing convenient and consistent hours for citizens to transact business with the Commonwealth. State agency practices must comply with the federal Fair Labor Standards Act (FLSA).

POLICY SUMMARY:

A. MANAGEMENT OF WORK HOURS

1. Management establishes and adjusts the work schedules of employees in the agency to meet the hours of public, business, operational, and customer need and to permit flexibility in employee scheduling to meet work/life needs when possible.
2. To comply with the Fair Labor Standards Act, agencies must ensure that procedures or systems are in place to document the work hours of non-exempt employees.
3. Sound business practice and prudent stewardship of Commonwealth resources dictate that management limits overtime assignments to situations where it is necessary.

B. AGENCY RESPONSIBILITIES

1. Determine core business hours for operations and alternate work schedules that meet the business needs.
2. Designate **positions** that are appropriate for working alternate work schedules and record these in the human resource system of record.
3. Record in the human resource system of record whether **employees** in the designated positions are working alternative work schedules.
4. Encourage the successful and appropriate use of alternate work schedules within the agency by providing training to supervisors and managers in effectively managing employees working alternative work schedules. Agencies should maintain a goal of permitting 25 percent of its **eligible** workforce to participate in alternate work schedules and strive to increase that percentage.
5. Develop internal agency policies and procedures addressing management-initiated alternate work schedules meeting business needs (e.g., 12-hour work shifts, 24/7 operational or rotating shifts, etc.)

6. Establish standard work cycles for similarly situated non-exempt employees in order to determine when overtime pay is due. This is an FLSA requirement.
 - a. If a work cycle has not been established, the agency's work cycle will default to 12:01 AM Sunday and end at midnight Saturday.
 - b. When considering a change to the work cycle, the agency should consult with the Department of Human Resource Management (DHRM). FLSA requirements address such a change for non-exempt employees.

C. EMPLOYEE RESPONSIBILITIES

1. Adhere to their assigned work schedules.
2. Take breaks and lunch periods as authorized.
3. Notify management as soon as possible if they are unable to adhere to their schedules, such as late arrivals or early departures.
4. Work overtime hours when required by management. Non-exempt employees must not work additional hours that have not been authorized by management.
5. Charge appropriate leave time to hours scheduled but not worked, requesting leave approval in advance, if possible.

D. WORK SCHEDULES

1. Salaried employees are expected to work the equivalent of a minimum of 40 hours per week. "Standard" schedules are 8 work hours per day for five days in a calendar week.
2. Management may adjust an employee's work schedule temporarily within a work cycle to avoid overtime liability or to meet operational needs. At management's discretion, employee's schedules may be adjusted to meet the employee's personal needs.
3. Substitution of work hours for leave:
 - a. An employee taking approved annual or sick leave during the week may also be asked to work additional hours during the same week. *With the approval of the employee*, the agency may substitute the additional hours worked for the hours of leave, thus reducing or eliminating the need for the employee to use leave.
 - b. Managers should ensure that employees are able to use their leave as intended within the business demands of the agency. Paid leave is a benefit.

E. MEAL PERIODS AND BREAKS

Supervisors or managers are responsible for scheduling lunch periods and/or breaks as described below:

Mandatory Meal Periods and Breaks

- a. Employees who work at least six consecutive hours shall be afforded a meal break of at least 30 minutes except in situations where shift coverage or operational requirements preclude such breaks.
- b. Employees who work a second consecutive shift shall be afforded a meal break after working four hours during the second shift.
- c. The lunch period shall not be included in the count of hours worked per day, except when the agency head or designee has designated the lunch break as

part of the work schedule. When employees are required to work during their lunch, that period shall be counted as time worked.

Example: When necessary to provide staffing for client (patient or offender) services and care, the lunch period shall be considered time worked.

Discretionary Breaks

- a. Agency managers may grant employees who work an eight-hour day or longer a maximum of one 15-minute rest break before and one 15-minute rest break after the required meal period.
- b. Rest breaks are included in the required hours of work per day.

Impermissible Use of Breaks

- a. The meal period and breaks must be taken separately. Break time is not to be used to extend the meal period.
- b. Lunch breaks should generally not be adjusted to offset an employee's late arrival or early departure, or to cover time off for other purposes. Supervisors or Managers may determine when or if meal periods may be used as an offset to address isolated incidents. Typically, this should occur only when the supervisor has approved the arrangement in advance and must not occur on a routine basis.

Mandatory Breaks for Nursing Mothers

- a. Agencies must provide a reasonable* break time for an employee to express breast milk for her nursing child each time the employee needs to express the milk.
- b. Agencies must provide a place, other than a bathroom, that is shielded from view and free from intrusion from co-workers and the public that may be used by an employee to express breast milk.*
- c. The breaks must be permitted for nursing mothers for up to a year following the baby's birth.
- d. Such breaks shall run concurrently with any break time already provided to the employee, if possible, but may need to be scheduled outside these times.
 - If the employee can complete the milk expression during a compensable discretionary break of 20 minutes or less, the time will be compensated.
 - If the employee needs additional time to complete the milk expression, she must be permitted the additional time. Additional time does not have to be compensated.
 - The employee may be permitted to adjust her schedule to make up additional time, charge the additional time to leave, or opt to be docked for the additional time.

*See Glossary and Resource Guide for definition of "reasonable" and guidelines for lactation spaces.

F. ALTERNATE WORK SCHEDULES

Agencies are encouraged to implement schedules that differ from the standard work schedule provided such schedules do not impede efficiency of agency operations or increase agency overtime liability.

Agencies are encouraged to allow alternate work schedules to facilitate or reduce employees' commuting time.

Assignment to an alternate work schedule does not affect the total number of hours an employee is scheduled to work.

An alternate work schedule is intended to benefit both the employee and agency operations. However, it may be necessary for agencies to require employees to work alternate work schedules as a condition of employment.

- a. In such cases, this requirement should be included when the position is advertised for recruitment and should be stated in correspondence offering employment

Agencies are encouraged to document alternate work schedules by developing work agreements that include:

- a. The alternate work schedule days and scheduled hours
- b. The duration of the agreement/schedule and how it might be changed
- c. How leave and holidays will be managed
- d. How emergency closings will be managed

Agency management may terminate alternate work schedule agreements at any time. Agencies should give employees advance notice of the date the agreement will end but advance notice is not required.

AUTHORITY & INTERPRETATION:

Title 2.2 of the Code of Virginia

The Director of the Department of Human Resource Management is responsible for official interpretation of this policy, in accordance with §2.2-1201 of the Code of Virginia. The Department of Human Resource Management reserves the right to revise or eliminate this policy.

RELATED POLICIES:

Policy 1.60, Standards of Conduct
Policy 1.61, Telecommuting
Policy 2.10, Hiring
Policy 2.20, Types of Employment
Leave Policies

POLICY HISTORY:

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DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

HOURS OF WORK ADMINISTRATIVE PROCEDURES

PROCEDURES: N/A See Resource Guide.

GLOSSARY:

**Alternate Work
Schedule**

Schedules that differ from the standard 40-hour workweek schedule. Alternative work schedules may include, but are not limited to, four 10-hour days, rotational shifts, flexible hours, and job sharing.

Employee Statuses

(F) Full-time salaried employees

- work the equivalent of 40 hours per week for 12 months per year.

(Q) Quasi-full-time salaried employees

- work 30 – 39.9 hours per week for 12 months per year; or
- work 40 hours per week for 9, 10 or 11 consecutive months per year.

(P) Part-time salaried employees

- work 20 – 29.9 hours per week for 12 months per year; or
- work 9, 10, or 11 consecutive months per year for at least 1040 hours annually but less than 30 hours per week (1560 hours per year).

FLSA Work Cycle

FLSA requires that non-exempt employees be assigned to a work cycle that can be used to determine if/when an employee has worked additional hours that must be compensated as overtime. Most work cycles are established as 7 consecutive calendar days.

28-Day Cycle

An alternate work cycle for law enforcement and other occupations (including correctional officers, police, and game wardens and fire protection employees) in accordance with the provisions of FLSA. Overtime work will be compensated after the requisite work cycle has actually been completed.

Flexible Work Schedule

Alternate Work Schedule

Public Service Hours

The normal operating hours for most state agencies, which consist of at least eight hours per work day, usually from 8:30 a.m. to 4:30 p.m.

Reasonable Break Time

(For nursing mothers only) "Reasonable" break time includes the amount of time needed to physically express the milk and the time it takes to walk to and from the designated lactation space, to prepare equipment and clothing for expressing the breast milk, to clean up afterwards, and to secure the milk in a refrigerator or cooler. The frequency of breaks needed varies widely and is also dependent upon a number of factors that the employer must consider. See Resource Guide.

Standard Work Schedule

The regular workweek for full-time positions, which consists of a five-day, 40-hour per week schedule for every seven calendar-day period.

Work Schedule

The employee's regularly scheduled hours of work in the central workplace and/or in alternate work locations (See Policy 1.61, Telecommuting).