



WEST VIRGINIA DIVISION OF ADMINISTRATIVE SERVICES AGENCY POLICY STATEMENT

SUBJECT: TIME, LEAVE AND ATTENDANCE POLICY

INDEX NUMBER: 230.00

EFFECTIVE DATE: 1/3/2024

PURPOSE: To establish the standards, expectations and guidelines for time, leave and attendance for all Division of Administrative Services (DAS) employees following West Virginia wage and hour laws, rules and regulations.

REFERENCE: West Virginia Division of Personnel Administrative Rule and the Federal Fair Labor Standards Act

RESPONSIBILITY: The Director, Deputy Director, Assistant Directors and all managers/supervisors of DAS are responsible for ensuring compliance with this policy.

CANCELLATION: Any previously written or verbal DAS or DHS instruction on this subject.

APPLICABILITY: All DAS employees and all situations when the employee is on duty. This Policy Statement is available for general distribution and is not exempt from Freedom of Information Act requests.

DEFINITIONS:

Exempt Status: The employee must meet the requirements to be overtime exempt in accordance with the provisions of the Fair Labor Standards Act (FLSA) and West Virginia's Minimum Wage and Maximum Hours Standards, W. Va. Code § 21-5C-1, et seq.

Non-Exempt Status: An employee eligible for overtime compensation in accordance with the provisions of the FLSA and West Virginia's Minimum Wage and Maximum Hours Standards, W. Va. Code § 21-5C-1, et seq.

Leave Abuse: Occurs when unsupported sick leave hours or any emergency leave time is equal to or greater than five percent (5%) of the time available for work in a six-month or longer period and/or the use of leave in a pattern that indicates abuse. (see the DOP Supervisor's Guide to Attendance Management for examples).

Tardiness: Occurs when an employee is not at his or her workstation (or working) as scheduled to begin their shift.

Unauthorized Leave: Defined as hours absent from work without approved annual or sick leave.

Division: Division of Administrative Services/DAS

POLICY: As a customer service agency, availability for work and appropriate coverage to support our clients and co-workers are critical in managing the requisite expectations and agency mission.

1.0 General

1.1 Section 14 of the West Virginia Division of Personnel (DOP) Administrative Rule (DOP Rule) outlines the leave rights and responsibilities for all employees of the State. Employees are expected to know and follow the DOP Rule.

1.2 The DOP provides an interpretive bulletin relative to the federal Fair Labor Standards Act (FLSA), which describes the applicability of overtime regulations. This bulletin describes what constitutes work time and other issues in detail. Those details are not repeated here. Managers are expected to familiarize themselves with this information if granting permission to employees to work overtime.

2.0 Manager/Supervisor Responsibilities

2.1 Establish work schedules fairly and consistently which promotes coverage necessary to provide excellent customer service and minimizes the need for overtime.

2.2 Require compliance with reasonable standards of performance by all employees to limit the need for overtime work.

2.3 Ensure employees comply with their work schedules.

2.4 Establish methods for employees to request approval to work overtime and communicate with employees that all overtime must be approved in advance.

2.5 Ensure employees are aware there may be disciplinary actions for working unauthorized overtime or for not working required overtime.

2.6 Ensure employee timecards are accurate and submit time in UKG.

3.0 Office Hours

3.1 The DAS building is open to the public from 8:00 a.m. – 4:00 p.m., Monday through Friday, except recognized holidays. The Division must be adequately staffed during those hours.

4.0 Work Schedules

4.1 Judgements regarding work schedules are the exclusive right of the employee's supervisor in consultation with their section's assistant director.

4.1.1 Supervisors must establish work schedules that meet the needs of the work unit as well as the Division.

4.1.2 Employees are expected to be at their workstation and ready to work at the beginning of their shift.

4.2 Standard Work Schedule

4.2.1 Employee standard work schedules are based on an 8-hour day for a total of 40 hours per week (Monday through Friday) with a ½ hour paid lunch each day. An alternative work schedule may be requested for consideration by the appropriate Section Assistant Director.

4.3. Alternative Work Schedule

4.3.1 Any schedule that totals 40 hours per workweek is acceptable, except that no regular schedule may begin earlier than 7:00 A.M or end later than 5:00 P.M., and no single day schedule shall exceed 8 hours, unless specifically authorized by the Section Assistant Director.

4.3.2 Employees may submit in writing to their Assistant Director should they wish to change their current work schedule. The Assistant Director must review the employee's requested schedule to assure that the schedule supports the effective and efficient operation of the work unit. Assistant Directors may approve or deny the requested schedule dependent on whether it will meet the needs or hinder the operation of the work unit.

4.3.3 Employees who work an alternative work schedule should understand that the schedule may be altered from time to time due to business needs.

4.3.4 Employees receive a 30-minute paid lunch (meal period) during any day when their schedule includes at least six hours of work.

4.3.5 Meal periods are paid and considered work time. There exists the possibility where an employee may be required to work while eating.

4.3.6 Employees who choose to have a permanently established one-hour meal period will extend their workday by 30 minutes - or take 30 minutes of pre-approved annual leave - and must be identified accordingly in the state's approved time-keeping system.

4.3.7 Employees' 30-minute or 1-hour meal period must be taken between the hours of 11 a.m. and 1:30 p.m. and may not be accumulated to allow the employee to shorten a workday or workweek.

4.4 Upon approval by the section Assistant Director, HR will need to be notified of any schedule changes to employee work schedules if on a permanent basis so it can be changed in UKG. Changes can be reported to DASHR@WV.gov The Division will try to accommodate employee schedule requests. However, the section needs to maintain adequate staffing during Division operating hours, so requests for a particular work schedule may be denied.

4.5 Any variation outside of the 7:00 a.m. – 5:00 p.m. agency established work schedule with a start time before 8:00 a.m. can be denied by the applicable section Assistant Director if it does not benefit section and agency operations.

5.0 Telecommuting (Work from Home)

5.1 As a customer service agency, all employees assigned work location is the DAS main Office. However, in some situations, an employee may be permitted to work remotely (telecommute). Temporary arrangements could be for a public health crisis, inclement weather, or various other reasons. These are short-term arrangements and if requested by the employee, it must be accompanied by a doctor's note requesting agency consideration for employee to work from home.

5.2 Any request for remote work by an employee must be submitted in writing with supporting documentation to the Assistant Director in charge of their section. The Assistant Director will forward the request along with any pertinent comments to the Director and/or Deputy Director for final review and action.

5.3 Employees are expected to have resources available to be productive during the temporary telecommuting arrangement. If work materials to appropriately telecommute are not available to the employee or it is determined work product is not adequate, the request will not be approved or will be rescinded.

6.0 Annual Leave

6.1 Employees are expected to manage their time in a way that is efficient for both the employee and the work unit. Employees should manage their leave throughout the year to avoid being in a use or lose situation at the end of the year (e.g., multiple employees using up use or lose time in late November and throughout December).

6.2 Employees need to request all planned absences as soon as possible. Extended leave, three days or more, should be requested no less than two weeks before the leave is taken.

6.3 Notification for routine medical and dental appointments should be given one week before the planned appointment. Actual leave taken should be submitted as soon as possible upon your return.

6.4 If excessive unplanned annual or sick leave is taken, supervisors may initiate an attendance improvement plan which may require additional documentation. Documentation could include physician excuses, car repair invoices, etc.

6.5 Employees who call in to utilize sick leave for a day previously requested as annual and denied may be required to provide a physician's excuse for that day upon their return to work.

6.6 Section supervisors can deny annual leave requests based on workload and/or other people already being scheduled to be off work.

6.7 All leave requests shall be approved through UKG.

6.8 Unplanned absences resulting in an employee's work hours falling below 40 hours in a week shall be supported by the appropriate leave requested through UKG. The absence of approved requested leave to account for 40 hours shall be treated as unauthorized leave.

6.9 Bereavement Leave can be used for the death of an immediate family member and consists of three scheduled workdays (24 hours total) that is deducted from the employee's sick leave balance. This is not included in the employee's 80 hours of allotted family sick leave.

7.0 Sick Leave

7.1 Employee sick leave is for the employee only.

7.2 Employees are not entitled to use sick leave on their last day of work.

7.3 Family Sick leave is 80 hours in a calendar year, and it comes from the employee's available sick leave balance that needs to be manually tracked by supervisors to ensure employees do not exceed this limit. Family sick leave can be used for immediate family members. The Administrative Rule lists this as:

7.3.1 Parents

7.3.2 Children

7.3.3 Siblings

7.3.4 Spouse

7.3.5 Father/Mother-in-law

7.3.6 Son/Daughter-in-law

- 7.3.7 Grandparents
- 7.3.8 Grandchildren
- 7.3.9 Stepparents
- 7.3.10 Stepsiblings
- 7.3.11 Stepchildren
- 7.3.12 Foster Children
- 7.3.13 Individual in an in loco parentis relationship
- 7.3.14 Individuals in a Legal Guardianship relationship

7.4 Employees who take any type of sick leave and do not return to work are not entitled to sick leave pay. If the employee resigns while on sick leave, and does not return to work, the employee will be required to reimburse the agency for sick leave used prior to resignation.

8.0 Call-off/Sick Leave

8.1 Employees who wish to utilize their sick leave must call, send a text message, or email their supervisor as soon as possible, but no later than one hour before the start of their shift.

8.2 The supervisor must acknowledge receipt of the message.

8.3 Failure to properly notify your supervisor as required will result in the leave being unauthorized and the employee's pay will be docked.

9.0 Leave: more than 40 hours worked in a week

9.1 Non-supervisory employees, who were approved work in excess of 40 hours in a week, and use Annual or Sick Leave, the appropriate portion of leave will be returned to the employee's leave balance. Positions identified as pay-by-schedule within the state's time-keeping system, are exempt from this option.

10.0 Timeclock

10.1 Employees who are required to use the timeclock must clock in and out at the beginning and end of each shift.

10.2 The workday may not start sooner than 7 minutes prior to the established start time and must end no later than 7 minutes after the established end time, but a full 8 hours must be accounted for. Punching in 1-7 minutes after the established start time and punching out 1-7 minutes prior to the established end of shift are not considered a proper workday.

10.3 When there is a missed punch the supervisor must enter the missed punch.

11.0 Attendance

11.1 Employees are expected to adhere to the leave requirements of the DOP Rule. These include, but are not limited to, reporting to work on time, not leaving work before the end of the scheduled workday, prior approval for the use of annual leave and sick leave for scheduled medical appointments and notifying his or her manager within at least one hour of his or her scheduled start time if he or she is going to be late or absent.

11.2 Employees who abuse their leave (see definition of leave abuse) are subject to leave restrictions and disciplinary action.

11.3 The Division observes all holidays established in the DOP Rule. Employees may not work holidays without the prior approval of their Assistant Director. Employees are not permitted to bank holidays.

12.0 Breaks

12.1 Each staff member is permitted to take two (2) - 15 minutes breaks per day, one in the morning and one in the afternoon.

12.2 Breaks more than the 15-minute morning and afternoon allotment is considered abuse and may be addressed by the appropriate supervisor.

13.0 Tardiness

13.1 The number of minutes and/or hours an employee is tardy for work, from lunch, or breaks—will be subtracted from time accrued.

14.0 Absenteeism

14.1 Per the DOP rule, the DAS may dock the employee's pay for an equal amount of time paid during which hours were not worked. The Human Resources section will notify the employee in writing that his or her pay is being docked and that the unauthorized leave is misconduct for which discipline is being imposed. Notice of the action shall be transmitted to the DOP.

15.0 Make-up Time

15.1 Making up time for appointments or extended lunches must be submitted in writing by the employee and approved in writing (email and text are considered in writing) by the Assistant Director.

Example: If an employee's regular schedule is 8:00 a.m. to 4:00 p.m., and the employee wishes to arrive to work at 9:00 a.m. because of a medical appointment, a written request to work until

5:00 p.m. to make-up the time rather than taking sick leave may be submitted to the section Assistant Director for approval of the modification.

Example: An employee has an appointment scheduled for two hours on a Wednesday. Instead of taking leave, the employee can submit to his or her supervisor a plan to work an hour late on Monday and Thursday of that week.

15.2 All requested modifications/adjustments to the work schedule shall be kept to a minimum and are to be considered the exception and not the rule.

15.3 All make-up time must be worked within the week that leave is taken. Time shall not be accounted for or made up for in prior or future weeks.

15.4 Plans to make-up time will be accommodated, when possible.

15.5 Employees must notify their appropriate section leadership when they will be late to work by 10 minutes or more. Notification shall be by the section leaderships' notification method of choice (text, phone call, e-mail, etc.)

16.0 Overtime

16.1 All overtime **MUST** be approved in advance, in writing, by the Assistant Director of the department, before any overtime is worked.

16.2 The Division complies with the FLSA and the West Virginia Minimum Wage and Maximum Hour Standards, which require employees who are not exempt from overtime to be paid at the rate of one and one-half times their hourly wage for any hours worked more than 40 in a workweek.

16.3 During weeks when there is a holiday and an employee works additional hours, those hours will be paid at their regular hourly rate.

16.4 Overtime is calculated on a workweek basis; therefore, employees may not schedule adjust across weeks.

16.5 Employees classified as exempt from overtime are not eligible for overtime pay.

17.0 UKG Time Keeping

17.1 All employees must report all work and leave hours accurately in the state's timekeeping system (UKG) and must approve their time by the Monday following the end of the pay period. Overtime calculations are performed in UKG based on employee FLSA exemption status and hours entered in UKG.

17.2 All leave requests shall be submitted through the Request Manager in UKG.

17.3 All requested annual leave and scheduled sick leave should be approved by the employee's supervisor prior to any leave being taken. If an employee's time off request has not been approved as the date for leave nears, the employee should remind their supervisor of the pending request in UKG.

17.4 All unscheduled sick leave must be entered into the Request Manager in UKG the day following the employee's return to work.

17.5 All sick leave absences exceeding three consecutive days require a doctor's note upon the employee's return to work.

18.0 Emergency Situation

18.1 Please refer to the DOP's Inclement Weather Policy located at <https://personnel.wv.gov/bulletinboard/Pages/InclementWeatherPolicy2020.aspx>

18.2 A call tree is being developed in the event that the building is closed.

19.0 Disciplinary process

19.1 Please refer to the DOP's Supervisor's Guide to Progressive Correction and Disciplinary Actions located at <https://personnel.wv.gov/SiteCollectionDocuments/Toolboxes/ER%20-%20SG%20Discipline%208-16a.pdf> and the [proposed] DAS Disciplinary Policy.

ATTACHMENTS: None

APPROVED SIGNATURE:



Joseph C. Thornton, Director

1.3.2024

Date