



HUMAN RESOURCES

Georgia Building Authority / State Properties Commission / Georgia State Financing & Investment Commission

HR-17: Fair Labor Standards Act (FLSA) Policy (effective: 11/2010)

Purpose

All employees of the Georgia Building Authority (GBA), Georgia State Financing and Investment Commission (GSFIC) and the State Properties Commission (SPC) are covered by the Wage and Hour provisions of the Federal Fair Labor Standards Act (FLSA) unless specifically exempted. The provisions of the FLSA include guidance for establishing work periods, payment of minimum wages, hours of work, overtime compensation and required record keeping.

Categories Of Employees

Employees who are covered by or subject to the minimum wage, overtime and recordkeeping provisions of the federal Fair Labor Standards Act are considered FLSA **non-exempt** employees.

Employees who, because of their job duties, are not subject to the FLSA minimum wage, overtime or recordkeeping requirements are considered **exempt** employees. Employees who are exempt fall into one of the following narrowly defined categories:

- **Executive**
- **Professional**
- **Administrative**
- **Computer**

Designations of **exempt** or **non-exempt** status are made by Human Resources based on criteria established by the FLSA. Such designations are made on an individual basis and are based on the actual work responsibilities assigned to each employee.

Work Period

The standard FLSA work period is a fixed period of seven (7) consecutive calendar days. It does not need to coincide with the calendar week and may begin on any day and at any time.

A work period must be established in writing for every employee (both exempt and non-exempt) and must be on file in an accessible location. The work period must define the time of day and day of the week when the employee's work period begins and ends (Example: Friday at 5:00 p.m. to the following Friday at 5:00 p.m.).

NOTE: Exempt employees are required to have a defined work period in the event that they assume non-exempt duties for a period of time, which may make them eligible for FLSA overtime compensation.

An established work period may be changed if the change is intended to be permanent and not for the purpose of avoiding the accrual of FLSA overtime.

Employees in the same organizational unit may have different work periods.

Time Worked

Time worked includes all time non-exempt employees are required to be on duty at prescribed work places, and all time during which non-exempt employees are permitted to work.

- Non-exempt employees must be compensated for all time which supervisors know or have reason to know is being worked, not simply the time which non-exempt employees have been required or asked to work.
- Supervisors cannot ignore work which non-exempt employees do on their own time. Non-exempt employees are required to report all time worked.



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- Non-exempt employees who work without supervisor authorization are subject to disciplinary action, up to and including separation.

Meal Periods – Although meal periods are not required by the FLSA, it is the policy of the GBA, GSFIC and SPC that a meal period is provided to all employees unless there are specific work-related reasons for not allowing meal periods.

- Meal periods are not considered work time as long as non-exempt employees do not perform any work-related duties for an uninterrupted period of at least 30 minutes.
- Meal periods should be regularly scheduled based on non-exempt employees work assignments and the needs of the organizational unit.
- Non-exempt employees are not allowed to occupy their work stations during meal periods.

Break Periods – Short break periods are counted as time worked.

- Break periods are not required by the FLSA; however, up to two 15-minute break periods per day *may* be authorized at the discretion of supervisors, and if work assignments permit.
- Supervisors may schedule break periods if determined appropriate with the organizational unit.
- Since break periods are work time, employees **are not authorized** to lengthen a meal period, report late to work, or leave early by working through a break period.

Meetings/Training – Time spent by non-exempt employees attending meetings, training and similar activities must be counted as time worked, unless **ALL** of the following criteria are met:

- The attendance is outside of non-exempt employees' regular working hours;
- The attendance is voluntary;
- The meeting, training or similar activity is not directly related to non-exempt employees' positions; and
- Non-exempt employees perform no work related to their positions while in attendance.

On-call – Non-exempt employees, who are not required to remain on the work premises and are free to engage in personal activities, subject only to the understanding that the supervisor knows how to reach them, are not working while on-call.

- All time which non-exempt employees spend actually performing work while on call is time worked.
- If actual calls are so frequent or the on-call conditions are so restrictive that non-exempt employees are not free to use the intervening periods effectively for personal benefit, the time must be considered time worked.

Travel – Normal travel between home and work is not work time. This is true whether the non-exempt employee has a fixed workplace or works at different locations.

- Travel to work assignments at sites within reasonable commuting distance of the non-exempt employee's primary work site is considered in the "home to work" category and is not work time. If, however, a non-exempt



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employee is required to stop by the primary work site for instructions or to pick up materials, the travel from the primary work site to the work assignment must be counted as time worked.

- Travel between a non-exempt employee's normal work site and another place of assignment, or travel between one assignment and another during the work day, is considered time worked.
- Travel associated with a one-day assignment at a different location must be considered time worked to the extent that the travel exceeds the time spent in the non-exempt employee's normal travel between home and work.
- The FLSA does not require that travel time out-of-town for overnight stay outside of normal work hours be counted as time worked. It is the practice of the GBA, GSFIC, and SPC to count bona fide travel time of non-exempt employees that is outside normal work hours as work time.
- FLSA exempt employees are not entitled to any FLSA compensation for travel time either outside of, or in addition to, their normal hours of work.
- FLSA exempt employees may be allowed reasonable travel time if determined appropriate by supervisors.

NOTE: *Employees employed in the CCS and SCCS titles should refer to the CCS/SCCS Travel Policy No. AC-0101-100 for additional details regarding Statewide Travel Regulations.*

Management Of Work Hours

Supervisors are responsible for monitoring arrival and departure times of non-exempt employees to ensure accurate records are maintained and to minimize overtime worked.

Non-exempt employees are not allowed to occupy their work stations before their scheduled work day begins, during meal periods, and after their work day ends.

Non-exempt employees are required to accurately sign in and out (recording time to the exact minute) when they arrive and leave their work areas. Non-exempt employees who fail to correctly record actual work time are subject to disciplinary action up to and including separation.

Exempt employees account for work weeks and therefore shall complete an approved timesheet at the prescribed time. However, if State compensatory time is allowed, the employee must gain approval from their manager and follow the reporting procedures as outlined.

Time worked by non-exempt employees should be reviewed prior to the end of the work period (when possible) to determine if overtime may occur. Non-exempt employees' work schedules may be adjusted to prevent overtime work.

If a non-exempt employee arrives after the scheduled reporting time, the supervisor may allow the non-exempt employee to adjust the work schedule within the work period to make up the time if tardiness seldom occurs and the adjustment is otherwise determined appropriate. If frequent tardiness occurs, the non-exempt employee should not be allowed to make up the time. The non-exempt employee may be disciplined according the Discipline without Punishment procedure.

Non-exempt employees must generally receive prior approval to work overtime. In unique or emergency situations, prior approval may not always be possible. Overtime worked in these instances must be reported to the supervisor as soon as possible. Non-exempt employees may be required to explain why overtime was necessary and why pre-approval was not possible. Whether authorized or not, all overtime work must be accurately and promptly recorded.



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Overtime may be granted for emergencies, unanticipated assignments or for special projects which cannot be completed during normal work hours. Overtime should not generally be granted for non-exempt employees when work should be completed during the work day. Supervisors should closely monitor all overtime worked in these instances.

A statement regarding responsibility and accountability for adhering to the provisions of FLSA is to be included on Performance Management Forms (PMF) of supervisors who supervise non-exempt employees. These supervisors are to be evaluated on compliance with FLSA on their PMF.

Overtime

If overtime occurs (non-exempt employee actually works more than 40 hours in a work period) the non-exempt employee is to receive time and a half of FLSA compensatory time for the amount of overtime worked.

NOTE: FLSA compensatory time is not granted to non-exempt employees who may have been in pay status for more than 40 hours during a work period due to a holiday or use of accrued leave, but who did not actually work more than 40 hours.

The actual amount of FLSA compensatory time earned by non-exempt employees should be reported on the non-exempt employees' time sheets.

Non-exempt employees may accrue up to a maximum of 240 hours of FLSA compensatory time (160 overtime hours worked x 1.5 = 240 hours of compensatory time).

Any non-exempt employee who has the maximum 240 hours of FLSA compensatory time must receive cash payment for any additional overtime worked above the 240 hours maximum. Such payment shall be based on the regular rate earned by the employee at the time the payment is made.

FLSA exempt employees are NOT entitled to FLSA compensatory time for time worked over 40 hours in a work period. In unusual circumstances when an exempt employee is required to work an extraordinary number of hours, the manager may grant some time off within a reasonable period of time.

Compensatory Time Used And Payment

Non-exempt employees must be permitted to use FLSA compensatory time within a reasonable period after making a request to use such time if the granting of such time off does not unduly disrupt the operations of the organizational unit.

Supervisors **must** require non-exempt employees to take FLSA compensatory time in lieu of annual leave. Non-exempt employees may request FLSA compensatory time in lieu of sick leave or personal leave.

FLSA compensatory time cannot be transferred between State agencies.

Non-exempt employees must be paid for accrued and unused FLSA compensatory time at the higher of the following rates:

- The average regular rate received by the non-exempt employee during the last three (3) years of employment; or
- The final regular rate received by the non-exempt employee.

The GBA, GSFIC and SPC shall have the option of providing an overtime payment to a non-exempt employee in lieu of granting FLSA compensatory time **at any time during the employee's employment** so long as the employee is paid at the regular rate earned by the employee at the time the employee receives such payment.



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Overtime payments are calculated on an hourly rate by adding the non-exempt employee's annual salary and supplemental pay and dividing the sum by 2,080 hours.

Overtime payment is calculated on the hourly rate in effect when the overtime was earned.

Record Keeping

All FLSA records must be kept for at least three (3) years by GBA, GSFIC and SPC unless otherwise directed. These records include, but are not limited to:

- Understanding Concerning FLSA Compensatory Time form signed by all new employees;
- Written records of employees work periods;
- Records of each non-exempt employee's daily and weekly time worked signed by the employee and supervisor.
- The amount of FLSA compensatory time accrued by each non-exempt employee during each work period;
- The amount of FLSA compensatory time used in each work period by each non-exempt employee; and,
- The amount paid for FLSA compensatory time and the basis of payment.

For additional information or assistance, please contact Human Resources.