

On June 20, 2018, the Nebraska Supreme Court approved the following rule amendments to the Nebraska Supreme Court Personnel Policies and Procedures Manual, specifically rule 25 regarding overtime compensation:

Nebraska Supreme Court Personnel Policies and Procedures Manual

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25. Workweek and Work Schedule

The designated workweek shall be from 8 a.m. on Friday to 7:59 a.m. the following Friday. All employees shall be informed of the designated workweek. All Judicial Branch full-time employees shall account for at least 40 hours of work or authorized leave time per week. Management sets each employee's work schedule. The workweek ~~work week~~ and work schedule of each employee shall be documented by each office.

A. Overtime Compensation Eligibility

The Administrative Office shall determine, in compliance with Fair Labor Standards Act (FLSA) requirements, the exempt or nonexempt status of all employees for overtime purposes. The status will be indicated on each job classification description.

(1) Exempt--Employees exempt from overtime include those who meet the FLSA definitions of professional, administrative, computer professional, supervisory, or executive.

(2) Nonexempt--All nonexempt employees must be compensated with compensatory time equal to one and one-half times the hours worked above 40 in a workweek, unless approved for overtime pay by the Administrative Office.

B. Non-Exempt Overtime/Compensatory Time/On-Call

~~Overtime in the Nebraska Court System shall be held to a minimum and must be avoided by use of flexing work hours within a workweek where possible. Only in times of emergency, such as hearings outside of business hours or juvenile probationer intake, or with prior approval of the supervisor should overtime be permitted.~~

Overtime is considered time in excess of the ~~designated~~ 40-hour workweek. Leave time (vacation, sick, etc., ~~with the exception of holiday leave~~) shall not be considered as hours worked. Holidays shall be considered as hours worked. Before any time can be considered as overtime, an employee must work, not just get paid for, 40 hours during the designated workweek. Time in excess of the 40-hour workweek may then be considered overtime. Overtime in the Nebraska Judicial Branch shall be held to a minimum, to the extent practicable. A nonexempt employee's schedule should be flexed within the Friday to Friday workweek in order to avoid working over 40 hours. For example, an employee working 2 extra hours on Wednesday may be directed to take 2 hours off on Thursday.

Requests for overtime must have approval from the supervisor prior to the work, unless it is not possible or practical to obtain prior approval, in which case the local manager or his/her designee may approve the overtime in writing as soon as possible subsequent to the time the work was performed.

~~Upon proper authorization, non-exempt employees may accumulate a maximum of 180 hours of compensatory time (120 hours of overtime worked). Accumulated compensatory time shall be used within 6 months. Cash must be paid at a time and one-half rate for overtime beyond those limits. Whenever possible, a non-exempt employee's schedule should be altered within the workweek so that his or her work hours do not exceed 40. (For example, an employee working 2 extra hours on Monday may be directed to take 2 hours off on Tuesday.) When it is not possible to obtain prior approval for required overtime work and when that time cannot be compensated either through an adjusted workweek or with compensatory time, then a written request from the supervisor to the Administrative Office is required for payment of overtime.~~

Nonexempt employees (including part-time employees) working more than 40 hours in one workweek shall receive overtime compensation in the form of compensatory time, granted at one and one-half hours for time worked above 40 hours. Accumulated compensatory time shall be used within 6 months.

In certain situations, Judicial Branch employees may be required to serve on-call after normal business hours off-premise. This is not considered work time if the employee is not engaged in work. Work required to be performed (answering a phone call, responding to an email, reporting to a work site, etc.) during on-call time is considered hours worked and eligible for overtime. For Judicial Branch employees required to be on-call with a workload that prevents flexing of one's schedule (juvenile probation intake or public guardian/conservator statutory responsibilities), overtime compensation may be in the form of overtime pay or compensatory time. The employee must indicate his/her choice of overtime compensation on the timesheet or on a required overtime approval form for the pay period during which the overtime was worked; the first overtime designation made during a pay period applies to the entire pay period. During times of budgetary constraint, overtime pay may be suspended and revert to compensatory time. If this occurs, employees shall be provided a 2-week notice, at a minimum.

It is the responsibility of the supervisor to monitor overtime for an employee. A record of all overtime shall be included on time sheets required by the Administrative Office. At times, a supervisor may direct an employee to expend some accumulated compensatory time. The employee, where possible, must be notified at least 24 hours in advance of the compensatory time to be taken. Overtime shall be counted in 15-minute increments, with a 7-minute rule applied to rounding. The cutoff point for rounding down is 7 full minutes. If the employee works for 7 full minutes, but less than 8 minutes, time is rounded down. If the employee works at least 8 full minutes, time is rounded up.

Upon proper authorization, an employee may accumulate up to 240 hours of compensatory time, although Judicial Branch management shall require employees to utilize compensatory time well before reaching this threshold, as directed by either the Court Administrator or the Probation Administrator. Compensatory time earned above 240 hours shall be paid.

Payment for accrued compensatory time upon termination of employment or upon the direction of the Administrative Office shall be calculated at the average regular rate of pay for the final 3 years of employment, or the final regular rate received by the employee, whichever is greater.

Any exception to this policy requires a written request from the supervisor to either the Court Administrator or the Probation Administrator.

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