

ADM-11.21, "Regular Working Hours and Overtime," January 1, 2005

SCDC POLICY/PROCEDURE

NUMBER:ADM-11.21

TITLE:REGULAR WORKING HOURS AND OVERTIME

ISSUE DATE:JANUARY 1, 2005

RESPONSIBLE AUTHORITY:DIVISION OF HUMAN RESOURCES

OPERATIONS MANUAL:ADMINISTRATION

SUPERSEDES:ADM-11.21 (July 1, 2004)

RELEVANT SCDC FORMS/SUPPLIES: 16-2, 16-8, 16-42

ACA/CAC STANDARDS: 4-ACRS-7E-07, 3-4048

STATE/FEDERAL STATUTES:Fair Labor Standards Act, South Carolina Budget and Control Board Regulations

THE LANGUAGE USED IN THIS POLICY/PROCEDURE DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS POLICY/PROCEDURE DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENTS OF THIS POLICY/PROCEDURE, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

PURPOSE: To provide guidelines for the regular hours of work and remuneration of all SCDC employees and to stipulate the conditions for and the compensation of a "non-exempt" employees overtime hours. (4-ACRS-7E-07, 3-4048)

POLICY STATEMENT: To promote sound fiscal management and accountability of employee records, the South Carolina Department of Corrections will ensure that the hours worked by Agency employees are properly documented and compensated for in accordance with applicable South Carolina Budget and Control Board Regulations, the Fair Labor Standards Act, and state and federal statutes.

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### SPECIFIC PROCEDURES:

#### 1. HOURS OF WORK:

1.1 The official work schedule for security positions will be either:

- 1.1.1 eight (8) hour shifts, on a 28 day cycle, 40 hours per week (Saturday through Friday), two (2) days off, to include a thirty (30) minute meal period each shift except as specified in Section 3.7.2, below; or
- 1.1.2 twelve (12) hour shifts on a 28 day cycle (as per the SCDC schedule card [as published annually by the Division of Human Resources]), including at least one 30 minute meal period each shift. (4-ACRS-7E-07, 3-4048)

1.1.3 A security employee may be required to report 15 minutes prior to his/her shift for shift briefing. Shift briefing is not included in an employee's work schedule, but is counted as hours worked. Should an employee fail to report for the required shift briefing, s/he could be disciplined in accordance with SCDC Policy/Procedure ADM-11.04, "Employee Corrective Action."

1.2 The official work schedule for full-time, non-uniformed positions will be established at five (5) workdays per week no less than 37.5 hours per week (excludes lunch period). Part-time employees will work the hours specified for their position.

1.3 Any work schedule established other than described in Sections 1.1 through 1.2, above, must be reviewed and approved in writing by the Division Director of Human Resources prior to implementation.

1.4 For employees other than those identified in Section 1.1, above, the meal period will be 30 minutes and will be counted as hours worked only if the employee is required to perform his/her duties during the meal period. (To count the 30-minute meal period as work time, the employee must be engaged in performing his/her duties.) It is incumbent upon each supervisor to ensure that employees are completely relieved of duty for the purpose of observing the meal period where possible.

#### 1.5 Rate of Pay:

1.5.1 The regular rate of pay includes all remuneration for employment paid to an employee to include base pay, longevity, and shift differential.

1.5.2 An employees regular hourly rate of pay is based upon his/her full-time equivalent annual salary divided by 2,080 hours (40 hour week) or 1,950 hours (37.5 hour week).

1.5.3 A part-time employees hourly rate of pay will be based upon his/her annual full-time equivalent salary divided by 2,080 (40 hour week).

1.5.4 Salaries for certified employees in the Division of Educational Services are determined by the teachers salary schedule from the South Carolina Department of Education.

1.5.5 The Payroll Branch, Division of Human Resources, will maintain an hourly rate of pay for each employee.

2. "EXEMPT"/"NON-EXEMPT" EMPLOYEES: In determining eligibility for compensation for working overtime within a specified work cycle, two (2) categories of employees have been defined by the Fair Labor Standards Act: (1) "exempt" and (2) "non-exempt." The following procedures will be followed to classify a position as "exempt" or "non-exempt":

2.1 When a new position is created or when an existing position is being re-evaluated (re-classified or level adjustment), the Division of Human Resources, Classification Branch personnel, will review the position description and apply the applicable test as follows:

- Learned Professional Position Exemption Questionnaire";
- Administrative Position Exemption Questionnaire"; or
- Executive Position Exemption Questionnaire."

2.2 Once the position is tested, the employee (if position is filled) and the appropriate manager will be notified of the position classification and approved exemption status of the position. The Division of Human Resources will make the appropriate changes in the personnel system for the position and/or incumbent.

2.3 The Chief, Benefits Branch, Division of Human Resources will review the questionnaire and a copy of the position description, and will classify the position as either "exempt" or "non-exempt." (NOTE: Any position that does not meet the "exempt" test criteria will be classified as "non-exempt.") The classification will become a permanent part of the position questionnaire file.

2.4 Notification to the appropriate Warden/Division Director will be made by the Division of Human Resources.

2.5 "Non-exempt" employees will be eligible to be compensated monetarily for overtime hours worked upon completion of their work cycle as per Sections 3.8 through 3.8.4, below. (NOTE: All hourly paid employees will be classified as "non-exempt.") "Exempt" employees will not be eligible to earn overtime.

2.6 All non-exempt employees will be paid at least minimum wage.

### 3. OVERTIME HOURS FOR "NON-EXEMPT" EMPLOYEES:

3.1 Work Cycle: For the purposes of computing overtime hours, "non-exempt" employees will be assigned designated work cycles which will be based upon their position.

3.1.1 For employees assigned to non-security positions, work cycles consist of seven (7) consecutive days in which employees normally work five (5) days and observe two (2) days off. Full-time employees assigned to this cycle will routinely work no less than 37.5 hours nor more than 40 hours during the seven (7) day period.

3.1.2 Work cycles for employees assigned to security and investigative positions will begin on a designated Saturday and end 28 calendar days later. Employees must account for 160 hours. (NOTE: Accountable hours include hours worked, any leave taken, and/or any holidays observed.)

3.1.3 Work cycles and overtime payment schedules will be published annually by the Division of Human Resources and must be posted in all work locations.

### 3.2 Authorization of Overtime:

3.2.1 Employees may not work hours in excess of their regular hours for the work cycle except as approved in advance by their supervisor based on Agency needs.

3.2.2 Under warranted circumstances, a "non-exempt" employee may be allowed to work in excess of the normal workday and may be given time off during the same work cycle at the rate of an hour for an hour to avoid overtime for the work cycle. This precludes working overtime and will eliminate the need for overtime payment.

3.2.3 Overtime pay must be paid or time off granted within the specified cycle to "a non-exempt" employee who works overtime in the work cycle. This requirement will not be waived by agreement between the supervisor and the employee.

### 3.3 Call Back:

3.3.1 When an employee is called to report back to work by the Agency (either before or after normal duty hours) to perform emergency services, the employee will be credited with all hours actually worked and such hours will be counted when computing any overtime that may be due.

3.3.2 In the event the "call back" and the services rendered require less than two (2) hours on the job, or in the event no work is available when the employee reports, a minimum of two (2) hours work time will be credited.

3.3.3 An employee will not be credited with or paid for call back time if the recall to work ("call back") was canceled and the employee received notice in advance not to report to work; or the employee refused alternate work that was offered upon reporting to work.

3.4 On Call: If an employee who is on call is not confined to his/her home or any particular place, but is required only to leave word where s/he can be reached or to carry a pager or cellular phone, the hours spent on call will not be regarded as working hours. An employee who is on call and is required to report to work by the Agency will be credited for a minimum of two (2) hours of work.

### 3.5 Travel Time:

3.5.1 Travel time for "non-exempt" employees may be hours worked under some conditions. Ordinary home-to-work travel or vice versa is not working time. Employees traveling on one (1) day assignments will be credited with hours worked for travel time, regardless of time of day or day of the week.

3.5.2 Travel time away from home involving an overnight stay for "non-exempt" employees is considered time worked when it occurs during the employees normal working hours. This provision is applicable not only on regular working days, but also during the corresponding hours of non-working days.

3.6 Lectures, Meetings, and Training For Employees ("Non-Exempt"): When a "non-exempt" employee by reason of official responsibilities is required to attend lectures, meetings, training programs, etc., such time will be considered work time.

3.7 Duty of More than 24 Hours: When an employee will be required to be on duty for more than 24 consecutive hours, the Department may exclude from hours worked all bona fide meal periods, and regularly scheduled sleeping periods provided that:

3.7.1 Sleep Time: The employer and employee agree to the exclusion for sleep time (agreement may be expressed or implied); adequate sleeping facilities will be furnished; the employee will usually enjoy an uninterrupted sleep; and not more than eight (8) hours may be excluded for sleep. Actual sleep time, up to eight (8) hours will be excluded unless an employee gets less than five (5) hours of uninterrupted sleep.

3.7.2 Meal Period: The employer and employee agree to the exclusion of meal periods (agreement may be expressed or implied); the employee will be completely relieved from duty for the purpose of eating regular meals; no more than one (1) hour may be excluded for each regular meal period. Actual meal time, not to exceed one (1) hour, shall be charged. If the meal period is less than 30 minutes, the entire period shall be recorded as hour worked and not more than three (3) regular meal periods may be scheduled within a 24-hour period.

3.8 Overtime Compensation: "Non-exempt" employees will be compensated for all hours worked and overtime hours worked as follows:

3.8.1 A 37.5 hour per week "non-exempt" employee must account for more than 40 hours before s/he becomes eligible for overtime compensation. Only the amount of work time in excess of 40 hours can be compensated at the overtime rate, either by granting the employee time-off within the same 7 (seven) day cycle in which the overtime was earned or by compensation. Employees will not receive overtime for hours worked between 37.5 and 40 hours per week; however, all hours worked must be recorded daily. Lunch periods are considered time worked when the supervisor allows/authorizes an employee to work during their lunch period. (NOTE: Part-time employees will be paid their regular rate of pay, up to 40 hours, before they become eligible for overtime compensation.)

3.8.2 For all hours worked in excess of 40 hours in a specified seven (7) day work cycle, or 171 hours in the specified 28-day work cycle, as specified under the Fair Labor Standards Act, compensation for overtime hours will be at one and one-half (1) times the employees regular hourly rate of pay, based upon a 40-hour work week. (NOTE: Time spent in leave status (paid or unpaid) or holiday observance will not be considered hours worked.)

3.8.3 A "non-exempt" employee may have his/her work schedule adjusted in order to avoid paying overtime when given a 24-hour advance notice by his/her supervisor within the specified 7/28-day work cycle. (NOTE: Such compensation will be in addition to all regular paid leave, i.e., annual leave, sick leave, court duty, holiday compensatory time taken, etc.)

3.8.4 Overtime will be paid in accordance with the annual overpayment schedule which is posted in each work location. A preliminary online overtime report will be available to each institution and division after the end of each 28 day cycle for verification of payment. The designated Human Resource Manager/Liaison must review the preliminary online overtime report for any errors or omissions. If the information is correct, s/he must mark the overtime record with a "Y." An overtime record marked with a "Y" should be paid to the employee on the next payday based on payroll cutoff dates. If the information is incorrect, the designated Human Resource Manager/Liaison must mark the overtime record with an "N" and submit to the Division of Human Resources any correction(s) on SCDC Form 16-8, "Overtime Verification Sheet" by the specified deadline date.

3.8.5 "Exempt" employees working beyond their normal work schedule cannot receive overtime compensation. However, with the approval of their supervisor, their work schedule may be adjusted.

3.8.6 Overtime compensation at premium rate is hours "worked" greater than 40 hours in a 7 day cycle and 171 hours in a 28 day cycle. Leave time taken, i.e., annual, sick, relative sick leave, holiday, etc., or a holiday observed does not count toward hours worked for premium rate.

3.8.7 A non-exempt employee who works on a holiday will earn holiday compensatory time only for the hours worked NOT to exceed 7.5 hours (37.5 hour work week) or 8 hours (40 hour work week), which will be counted as hours worked for the purpose of calculating overtime.

4. RECORD KEEPING REQUIREMENTS - LEAVE AND ATTENDANCE: An accurate record of all hours worked and all leave taken will be maintained for each employee of the South Carolina Department of Corrections as follows:

4.1 "Non-Exempt" Employees: "Non-exempt" employees must report all hours worked including all or part of a shift briefing and any leave taken on a weekly basis using SCDC Form 16-2, "Leave and Attendance Report." Hours worked and leave taken must be recorded as per Chart I, below.

4.2 "Exempt" Employees: "Exempt" employees must report on SCDC Form 16-2, "Leave and Attendance Report," all holiday compensatory time earned and all leave time taken. Holiday compensatory time earned and leave time taken must be recorded as per Chart I, below.(4-ACRS-7E-07, 3-4048)

CHART I

ACTUAL TIME (Minutes)	INTERVAL (Minutes)	ENTRY (Decimal)	ACTUAL TIME (Minutes)	INTERVAL (Minutes)	ENTRY (Decimals)
0-1.5	0	0	31.6-34.5	33	0.55
1.6-4.5	3	0.05	34.6-37.5	36	0.60
4.6-7.5	6	0.10	37.6-40.5	39	0.65
7.6-10.5	9	0.15	40.6-43.5	42	0.70
10.6-13.5	12	0.20	43.6-46.5	45	0.75
13.6-16.5	15	0.25	46.6-49.5	48	0.80
16.6-19.5	18	0.30	49.6-52.5	51	0.85
19.6-22.5	21	0.35	52.6-55.5	54	0.90
22.6-25.5	24	0.40	55.6-58.5	57	0.95
25.6-28.5	27	0.45	58.6-60.0	60	1.00
28.6-31.5	30	0.50			

4.3 The work week will begin with the first shift on the first day of the designated leave cycle and ends on the third shift of the last day of the designated leave cycle for the purpose of computing overtime for the 28 day cycle as well as the 7 (seven) day cycle.

4.4 Work cycles run Saturday through Friday for all employees except for those classifications approved for Sunday through Saturday leave cycle by the Division of Human Resources.

4.5 All "Leave and Attendance Reports" (SCDC Form 16-2) must be submitted to the designated institution/division record keeper by 12:00 (noon) each Monday following the end of the work week for entry of data. The institution/division record keeper must enter all leave and attendance reports into the leave system by close of business each Wednesday.

4.6 Each "Leave and Attendance Report" (SCDC Form 16-2) must be signed by the employee and approved by the appropriate supervisor.

4.7 Should an employee be on leave status during an entire week or unavailable to sign the SCDC Form 16-2, "Leave and Attendance Report," the employee's supervisor will be responsible for ensuring that the report is accurately completed and submitted in a timely manner. In such instances, the supervisor will indicate that the employee is not available for signature on the signature portion of the "Leave and Attendance Report" and will ensure that the employee is provided a copy upon returning to work. (NOTE: If an employee is on extended leave, the supervisor will be responsible for sending the employee a copy via U.S. mail.)

4.8 Any changes made to a "Leave and Attendance Report" after the employee signs the same requires both the employee's and supervisor's initials.

4.9 An adequate supply of SCDC Form 16-2, "Leave and Attendance Reports," will be maintained by each division/institution for employee use. "Leave and Attendance Report" forms can be ordered directly from the Commissary Branch.

5. **FALSIFICATION OF RECORDS:** Any employee who knowingly and/or deliberately falsifies any portion of any "Leave and Attendance Report" (SCDC Form 16-2) will be subject to disciplinary action up to and including termination of employment, pursuant to SCDC Policy/Procedure ADM-11.04, "Employee Corrective Action." Any supervisor who knowingly and/or deliberately allows any employee to submit a falsified "Leave and Attendance Report" will be subject to disciplinary action up to and including termination, pursuant to SCDC Policy/Procedure ADM-11.04, "Employee Corrective Action." Falsification of an SCDC Form 16-2, "Leave and Attendance Report" which would constitute criminal activity will be subject to prosecution as defined by the South Carolina Code of Laws.

#### 6. DEFINITIONS:

"Exempt" Employee refers to an employee who is exempt from both the minimum wage and overtime requirements of the Fair Labor Standards Act due to employment in a bona fide executive, administrative, professional, or outside sales activity.

Fair Labor Standards Act (FLSA) refers to a law that establishes "exempt" and "non-exempt" categories of employees and the guidelines that apply to each category. All employees are either "exempt" or "non-exempt."

Full-time refers to a position appropriated by the General Assembly with work hours of 37.5 hours or more per week. (4-ACRS-7E-07, 3-4048)

Hours of Work refers to time that the employee is required to be on duty or at the prescribed workplace and all time during which the employee is permitted to work. This includes any bona fide work which the employee performs on or away from the premises if the supervisor knows or has reason to believe that the



work is being performed. (4-ACRS-7E-07, 3-4048)

"Non-exempt" Employee refers to an employee who is covered by the Fair Labor Standards Act and who is, therefore, subject to both minimum wage and overtime requirements of the law.

Part-time refers to a position appropriated by the General Assembly with work hours of less than 37.5 hours. (4-ACRS-7E-07, 3-4048)

SIGNATURE ON FILE

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s/ Jon E. Ozmint, Director

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