BOBBY JINDAL
GOVERNOR

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COMMISSIONER OF ADMINISTRATION

State of Louisiana

Division of Administration

Office of State Human Capital Management

STATEWIDE PERSONNEL POLICY NO. 2

EFFECTIVE DATE: **September 4, 2015**

SUBJECT: **Overtime/Compensatory Leave Policy**

AUTHORIZATION: _____
Kristy Nichols, Commissioner of Administration

I. Policy

This policy provides guidelines for the consistent management of overtime compensation for required, authorized work which must be done beyond an employee's regularly scheduled workday or work period. Employee compensation for overtime will be in accordance with State Civil Service Rules, State Police Commission Rules, and the Fair Labor Standards Act ("FLSA"), with the FLSA taking precedence in the event of a conflict within these provisions.

II. Purpose

The State of Louisiana ("State") fully intends to properly compensate employees for all hours worked as required by law. Overtime, and the related crediting of compensatory leave or payment of wages, generally must be authorized prior to the overtime hours actually being worked and shall be authorized based upon business necessity only.

Supervisors are required to manage and control the overtime hours worked by their employees. Under no circumstance should overtime which requires the payment of wages be permitted unless and until the supervisor authorizing such overtime has confirmed the availability of funding. To avoid creating financial liability at the end of each fiscal year, supervisors also are required to monitor the accrual of compensatory leave to ensure that the caps on accrual are not exceeded.

III. Applicability

This policy applies to all employees, regardless of status or position, within the Governor's executive cabinet agencies.

Overtime/Compensatory Leave policies of these agencies are repealed and replaced by this policy.

IV. Definitions

1) Overtime - Time actually worked by an employee at the direction of and with supervisory approval:

a) In excess of regular duty hours in the workday;
b) In excess of regular duty hours in the scheduled work period;
c) On a day observed as a holiday; or
d) On a day the office is officially closed.

2) Work Period - The period defined in the LaGov HCM system based on the employee's work assignment and/or job group. This will be a 40-hour work week for most employees, but varies for some occupations.

3) Hours Worked - All time during which an employee is actually required or permitted to perform duties in furtherance of the interests of the State.

4) FLSA Overtime - Compensation for overtime to a qualifying non-exempt employee required by the FLSA which necessarily involves crediting of compensatory leave or payment of wages for hours actually worked in excess of regular duty hours in the scheduled work period. Such compensation will be at the time and one-half rate.

5) State Overtime - Compensation for overtime to an employee who is not eligible for overtime under the FLSA, which may not involve actual work hours beyond the regular work period. Such compensation will be at the straight-time rate.

6) Compensatory Leave - Leave earned in lieu of cash payment at the straight-time or time and one-half rate as compensation for overtime hours worked. Crediting of such leave is based upon a determination of the employee's status as exempt or non-exempt, and also upon the number of hours actually worked throughout the designated work period.

7) Official Work Domicile – The city in which an employee's primary office is located or such area as may be designated by the appointing authority, provided that in all cases such designation must be in the best interests of the agency and not for the convenience of the employee.

8) Emergency Situation – A Governor-declared State of Emergency or activation of the State Emergency Operations Center at Level 3 or above.

9) Non-Exempt Employee - An employee who occupies a position covered by the overtime provisions of the FLSA, thereby requiring that he be compensated in accordance with the FLSA at the time and one-half rate for hours actually worked in excess of regular duty hours in the scheduled work period.

10) Exempt Employee - An employee who occupies a position not covered by (exempt from) the overtime provisions of the FLSA, thereby permitting him to receive no compensation for overtime except as authorized by this policy. Employees who occupy

positions that are classified as executive, administrative and professional, outside sales, and certain positions in the information technology field are generally exempt from receiving overtime under the FLSA.

NOTE: The classification of a position as exempt or non-exempt is dependent upon criteria set forth within the FLSA. This determination is made based upon an evaluation of the actual duties performed by the employee. The designation of positions as exempt or non-exempt is maintained by and available from the Office of State Human Capital Management.

V. Designations and Compensation

1) Non-Exempt Positions – Authorized overtime hours worked by employees who occupy non-exempt positions are to be compensated as follows:

a) Compensatory leave calculated at the time and one-half rate for overtime hours actually worked in excess of regular duty hours in the scheduled work period (FLSA Overtime); and

b) Compensatory leave calculated at the straight-time rate for hours worked beyond the regularly scheduled work period when the maximum number of hours to receive overtime under the FLSA have not been actually worked in that work period (State Overtime).

NOTE: Special Provisions for Non-Exempt Positions (Subject to budget availability at the discretion of the Appointing Authority)

i) Authorized hours actually worked at designated locations due to and directly related to an emergency situation during official office closures may be compensated via the payment of wages calculated at the time and one-half rate, if approved by the Appointing Authority, along with the office closure pay required by the Civil Service Rules.

ii) The Appointing Authority reserves the right to pre-approve payment of wages, rather than credit compensatory leave, at the appropriate rate for designated projects or to ensure regulatory compliance which require an employee to actually work beyond his regular work hours.

2) Exempt Positions – Authorized overtime hours worked by employees who occupy exempt positions are to be compensated via the crediting of compensatory leave at the straight-time rate.

NOTE: Special Provisions for Exempt Positions (Subject to budget availability at the discretion of the Appointing Authority)

i) Authorized hours actually worked at designated locations due to and directly related to an emergency situation during official office closures may be compensated via the payment of wages calculated at the time and one-half rate, if approved by the

Appointing Authority, along with the office closure pay required by the Civil Service Rules.

ii) The Appointing Authority reserves the right to pre-approve payment of wages, rather than credit compensatory leave, at the straight-time rate for designated projects or to ensure regulatory compliance which require an employee to actually work beyond his regular work hours.

VI. Calculating Overtime Compensation

Overtime compensation is calculated based upon the scheduled work period. Non-exempt employees are entitled to compensation calculated at the time and one-half rate only after actually working in excess of the scheduled work period. Thus, the use of leave of any nature or the occurrence of a holiday during a work period affects the rate of compensation to which a non-exempt employee is entitled.

For purposes of calculating hours worked for State overtime, a day off from work due to paid leave or a holiday is considered to be a day worked; however, a day off from work due to paid leave or a holiday is not considered to be a day worked for purposes of calculating hours worked for FLSA overtime.

VII. Overtime for Meal Periods

Designated meal periods are not considered work time and employees are not allowed to work during the scheduled meal period. If a non-exempt employee is required or authorized to work through the designated meal period, overtime compensation at the appropriate rate is required under the FLSA.

VIII. Overtime for Attendance at Conferences, Conventions, and Training Programs

When an employee is required by his Appointing Authority to attend a conference, convention, seminar, workshop, training course or related activity on weekends, overnight or outside normal work hours, all time actually spent participating in program activities shall be designated as hours worked for which compensation at the appropriate rate is required. Social events are not considered conference program activities and are not to be designated as work hours.

When an employee elects to and is permitted by his Appointing Authority to attend a non-mandatory conference, convention, seminar, workshop, training course or related activity during regular work hours, he shall receive no additional compensation for participating in program activities beyond regular work hours.

IX. Overtime for Travel

While on authorized travel status for official State business purposes, overtime compensation at the appropriate rate is required for the reasonable and necessary time spent outside regular work hours in transit to and from the destination.

1) Home to Work Travel

Travel to and from the work site is not considered work time. However, when an employee has gone home after completing a day's work and is subsequently called back to work after hours, the Appointing Authority may designate all time spent on such travel to and from the work site as work time for which overtime compensation at the appropriate rate may be authorized. Similarly, if an employee is called to work on a weekend or during a holiday (which is not part of the employee's regular duty hours), their regularly scheduled day off, or during an office closure, the Appointing Authority may designate the travel time to and from the work site as hours worked for which compensation at the appropriate rate may be authorized.

2) Conference Travel

Approved travel to and from a conference, convention, seminar, workshop, training course or related activity, when attendance is required, shall be designated as hours worked for which compensation at the appropriate rate is required. Hours worked cease upon arrival at the destination.

Travel beyond regular work hours to and from a non-mandatory conference, convention, seminar, workshop, training course or related activity elected by an employee shall not be designated as hours worked for which compensation is required or permitted.

3) Airline Travel

If travel by airline is required beyond regular work hours, hours claimed for compensation purposes shall be limited to no more than two hours in the airport prior to the designated flight departure time and continuing through the time of arrival at the destination.

4) Regular Travel

Travel time away from the official work domicile which is necessary to place the employee at a work location to perform field work, on-site visits or similar activities shall be designated as hours worked for which compensation at the appropriate rate is required.

Note: When an employee chooses a different mode of travel than that required by the State, any additional travel time incurred as a result of the employee's decision shall not be considered hours worked for overtime purposes. Travel time between an employee's home and official work domicile shall not be eligible for overtime compensation.

X. Caps on Accumulation of Compensatory Leave

1) Leave Earned at the Time and One-Half Rate

The FLSA permits the accumulation of compensatory leave earned at the time and one-half rate up to a maximum cap of 240 hours. Non-exempt employees must be paid wages at the

time and one-half rate for any overtime hour above the 240-hour cap during the pay period such overtime hour is earned. Supervisors are required to ensure that the 240-hour cap is not exceeded.

2) Leave Earned at the Straight-Time Rate

Compensatory leave may be earned at the straight-time rate in excess of 360 hours, but not more than a total of 360 such hours can be carried forward from one fiscal year to the next. This cap applies to both exempt and non-exempt employees.

For non-exempt employees whose straight-time compensatory leave balance exceeds the 360-hour cap, payment for the excess compensatory leave shall be made within 90 days of the beginning of the fiscal year.

For exempt employees whose straight-time compensatory leave balance exceeds the 360-hour cap, payment for the excess compensatory leave, up to a maximum of 80 hours, may be made within 90 days of the beginning of the fiscal year, budget permitting. All straight-time compensatory leave above 360 hours, shall be canceled by the Appointing Authority within 90 days of the beginning of the fiscal year if not paid.

Note: Special Provision – Only the Appointing Authority, for documented reasons, can authorize payment for compensatory leave earned at the straight-time rate by an exempt employee for hours in excess of 80 above the 360-hour cap.

XI. Compelled Use of Compensatory Leave

An employee who has been credited with compensatory leave earned at the time and one-half rate and/or at the straight-time rate may be compelled by supervisory personnel, with the approval of the Appointing Authority, to take all or part of such leave at any time.

Compensatory leave earned at the time and one-half rate shall be taken before compensatory leave earned at the straight-time rate, unless the Appointing Authority approves otherwise. When an employee is compelled to use compensatory leave, it must be taken prior to granting annual leave or leave without pay, and may be taken upon exhaustion of sick leave only with the express approval of the Appointing Authority in consultation with the Office of State Human Capital Management.

XII. Compensatory Leave Payment upon Transfer or Separation

1) Leave Earned at the Time and One-Half Rate

All unused compensatory leave earned at the time and one-half rate by non-exempt and exempt employees shall be paid upon transfer from one state agency to another or separation from state employment. Payment shall be calculated at the rate defined by FLSA.

2) Leave Earned at the Straight-Time Rate

All unused compensatory leave earned at the straight-time rate by non-exempt employees shall be paid upon transfer from one state agency to another or separation from state employment. Payment shall be calculated at the rate defined by FLSA.

All or a portion of an exempt employee's unused compensatory leave earned at the straight-time rate may be paid upon transfer or separation from state employment. Any payment made shall be at the sole direction and discretion of the Appointing Authority, and subject to the availability of funding. Payment shall be calculated at the rate defined by FLSA. When an employee is detailed to a position, the payment shall be made on the rate of pay in his home position, not the detailed position.

Unused and unpaid compensatory leave will be canceled upon an employee's transfer from one state agency to another or separation from state employment and will not be recredited upon reemployment by the State.

XIII. Compensation Disputes

The State will make every effort to ensure that an employee's compensation is correct. Any employee who believes he has been improperly compensated should consult supervisory personnel immediately upon discovering the error. Supervisors are responsible for researching the problem and resolving the compensation dispute as quickly as possible. Upon resolution, the supervisor must inform the employee of the outcome of the decision. Should it be discovered that the State has inadvertently underpaid an employee, he shall be paid all funds due and owing.

In the event an employee is inadvertently overpaid wages, the State has the right and duty to recoup any and all such funds without the necessity of any action other than prior notification to the employee of the amount paid in error. The employee will be notified of the discrepancy and a method of recovering the funds will be determined by the Appointing Authority in consultation with the employee and Office of State Human Capital Management. Outstanding debts may be turned over to the Office of Debt Recovery and/or Attorney General's Office for collection.

XIV. Miscellaneous

1) All employees at the time of hire are required to sign a Statement of Agreement Regarding Compensation for Overtime Work.

2) Supervisors can compel employees to work overtime at any time as necessary to accomplish job assignments including, but not limited to, during emergency situations and office closures.

3) Employees can be disciplined, up to and including dismissal, for failing or refusing to work overtime as directed by supervisory personnel.

4) Prior supervisory approval to work overtime is required.

5) Overtime should be limited and authorized only when the required work cannot be completed during the regularly scheduled work period.

6) Supervisors should prudently manage the work of subordinates in order to mitigate the need for overtime and are required to monitor overtime hours worked to avoid abuse.

7) All overtime hours worked must be reported by the employee, along with an explanation of the nature of the work performed and business need therefor.

8) All overtime hours worked must be entered into the LaGov HCM system and, if necessary, recorded on the Overtime and Compensatory Leave Earning Record during the pay period in which the overtime is worked.

9) Payment for compensatory leave shall be calculated at the rate defined by FLSA at the time of payment.

10) The supervisor must verify the availability of funds in the budget before payment of wages as compensation for overtime hours is made.

XV. Violations

Any employee found to have knowingly and intentionally falsely claimed overtime compensation will be subject to disciplinary action, including the possibility of dismissal. Additionally, falsely claimed overtime shall be reported to the appropriate authorities in accordance with La. R.S. 24:523, as a result of which criminal prosecution may ensue.

Employees who violate this policy may be subject to discipline, up to and including dismissal.

XVI. Exceptions

Requests for exceptions to this policy shall be submitted to the Office of State Human Capital Management with specific and compelling written justification. Exceptions may be granted only if determined to be in the overall best interest of the State.

XVII. Questions

Questions regarding this policy should be addressed to the Office of State Human Capital Management.