

**STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
POLICY STATEMENT
ON
LEAVE AND OVERTIME**

Policy 2.2.1

Effective: 09/09/2013
Revision: N/A

PURPOSE

This policy is intended to establish procedures and provide guidance to Department of Administration employees regarding accurately requesting, approving, monitoring, and reporting all leave categories and authorization and compensation for overtime worked.

AUTHORITY & REFERENCES

Fair Labor Standards Act (FLSA); Nevada Revised Statutes (NRS) 281.110; NRS 284.180; NRS 284.181; NRS 284.065 through NRS 284.360; Nevada Administrative Code (NAC) 284.071, NAC 284.242 through NAC 284.258; NAC 284.523 through NAC 284.598; Work Schedule Policy for Department of Administration; the Executive Order by the Governor dated March 15, 2010; and Nevada Employee Action and Timekeeping System (NEATS).

POLICY

It is the policy of the Department of Administration to ensure the use of leave and overtime, whether for cash or compensatory time off, is exercised in a responsible manner limiting any fiscal liability which may impact the agency's budget. Employees and supervisors are expected to follow the procedures set forth in this policy for requesting, approval, monitoring, and reporting of all employee leave and overtime.

SCOPE

This policy applies to all employees working under the authority of or within the Department of Administration.

RESPONSIBILITY

- A. Employees are responsible for:
 - 1. Timely reporting and submitting all leave and overtime requests following NEATS guidelines and procedures outlined in this policy and ensuring the appropriate approval is received.
 - 2. Accurate reporting of leave on timesheet
 - 3. Adhering to the guidelines set forth in this policy.
- B. Supervisors are responsible for:
 - 1. Timely reviewing of employee leave and overtime requests in NEATS and electronically approving, rejecting or modifying the requests, following NEATS guidelines and procedures outlined in this policy. All annual leave and overtime should be approved/denied in advance of the event.

2. Assigning a second-in-command or designated representative and notifying all employees under his/her supervision that this designated representative should be contacted regarding all requesting or reporting of leave and overtime in the event the supervisor is unavailable or unreachable.
3. Monitoring employees' leave and overtime usage to ensure compliance with provisions in this policy and state regulations and statutes.
4. Ensuring appropriate documentation of leave and overtime events and approvals and acting to reduce liability to the State, in compliance with the guidelines of this policy.

C. Division Administrators are responsible for:

1. Ensuring that their division complies with this policy.
2. Approving overtime.
3. Reporting quarterly any overtime events to the Director or his/her designated representative.
4. Ensuring that no exceptions are granted to this policy, unless written approval is granted by the Director.

DEFINITIONS

Compensatory time, also known as "comp time," is earned in lieu of cash payment.

Emergent issue is an event that arises unexpectedly calling for prompt action.

Emergency is an event involving imminent danger to life or property.

Flex time/Flex-off is when employees adjust their daily work schedule so that they do not exceed 40 hours in the workweek. An employee, who worked more than 8 hours one day, will "flex-off" or work a shorter day within that week. Flex time must be used in the same work week that the flex time is earned. For example, an employee works 2 extra hours on both Monday and Tuesday; he or she will flex-off those 4 hours on Wednesday (in the same work week) by working a 4-hour day.

A Variable Work Schedule may be a permanent work schedule as with an innovative workweek. The schedule is also commonly used in conjunction with a standard or non-standard schedule to allow for flexibility in hours when unforeseen circumstances arise. The variable workday is available to an employee through a voluntary written agreement between the employee and the employer. A variable schedule, sometimes referred to as a "flex" schedule, may be used as provided by NRS 281.100. All employees who choose and are approved for the variable workday may use this schedule with prior approval of his/her supervisor or Division Administrator. See the Work Schedule Policy for the Department for more detailed information on alternative work weeks.

Overtime is considered time worked in excess of: (a) Eight hours in 1 calendar day; (b) Eight hours in any 16-hour period; or (c) A 40-hour week. For employees who have signed a TS-78 Variable Workday Form overtime is time worked in excess of a 40-hour week.

- The principal method of compensating employees for overtime is cash at the rate of time and one-half an employee's normal rate of pay.
- If an employee and the agency enter into an agreement that complies with FLSA, an employee may receive compensatory time at the rate of time and one half in lieu of cash for overtime.
- Overtime is intended as an infrequent solution to handle emergencies, emergent issues, or critical deadlines; overtime is not intended to become a vehicle for an employee to accomplish his/her regular workload, or to "help" an employee with low leave balances build a comp time leave balance.

PROCEDURES

A. ANNUAL LEAVE

1. The supervisor shall approve/deny requests for annual leave.
2. Annual leave must be requested and approved prior to being taken. Requests for annual leave must be submitted through NEATS by using the 'Request Leave' link located under My Tasks on the NEATS Home Page at least 48 hours in advance or as soon as the employee is aware of a need for the leave. A request for annual leave does not constitute approval. Every effort will be made to accommodate employees in the use of their annual leave; however, there will be times when the needs of the Department require that specific leave requests be denied.
3. An employee's electronic request for annual leave submitted through NEATS at least 60 days in advance will be honored unless it will cause a hardship to the Department. The supervisor or Division Administrator must provide approval/rejection within 15 working days after receipt of the request.
4. All requests must be electronically approved, rejected or modified by the employee's direct supervisor or Division Administrator in NEATS. If verbal approval is given for last minute requests this approval should be documented in an email and noted in the 'Timesheet Note' in the employee's timesheet.
5. Annual leave accruals in excess of 30 working days (240 hours) will be forfeited at the end of the calendar year unless the employee has requested and been refused leave. Requests for cash payment of annual leave in excess of 30 working days (240 hours) may be made if, on or before October 15th, an employee had requested annual leave time during that calendar year and the request was denied in writing.

B. CATASTROPHIC LEAVE

See separate Department Catastrophic Leave Policy for detailed information.

C. **COMPENSATORY TIME**

1. **Election of Compensatory Time Agreement:** Principle compensation for overtime worked is cash payment; however, if the agency is not in a position financially to support paid overtime, Division Administrators or a designated supervisor may authorize compensatory time. The use of Accrued Compensatory Time (ACT) is an authorized method of payment for overtime work when the employee has agreed, in writing, to utilize that form of compensation.
2. Employees who choose or agree to the option of compensatory time off must complete the Election of Compensatory Time form (DHRM form TS-25). With agreements in place, the employer has the choice, within budgetary limitations, to select either cash payment or accrual of compensatory time off for each overtime work occasion.
3. Compensatory time must, whenever possible, be used within a reasonable time after it is accrued.
4. An employee who has accrued both annual leave and compensatory time, and who may lose annual leave at the end of the calendar year, may elect to use the annual leave instead of the compensatory time for approved leave. In all other instances, compensatory time must, as far as practicable, be exhausted before annual leave is used.
5. Requests for compensatory leave must be submitted through NEATS by using the 'Request Leave' link located under My Tasks on the NEATS Home Page at least 48 hours in advance or as soon as the employee is aware of a need for the leave. A request for compensatory leave does not constitute approval. Every effort will be made to accommodate employees in the use of their compensatory leave, however, there will be times when the need of the Department require that specific leave requests be denied.
6. All requests for compensatory leave must be electronically approved, rejected or modified by the employee's direct supervisor or Division Administrator in NEATS. If verbal approval is given for last minute requests this approval should be documented in an email and noted in the "Additional Description" box in the employee's timesheet.
7. An employee's written request for cash payment may not be unreasonably denied unless it is determined by the director or his/her designated representative that there is insufficient money available in the department's budget.
8. Provisions relating to use of, and payment of, compensatory time are outlined in NAC 284.252, NAC 284.253, and NAC 284.2508.

D. SICK LEAVE

1. **Authorized Use:** The supervisor or Division Administrator may approve sick leave only after it has been determined that the absence was for an authorized reason and that the employee has sufficient leave balances. Authorized uses of sick leave are specified in NAC 284.554.
2. **For absences in excess of three (3) consecutive working days, or for cases of suspected abuse,** the Department may require that the employee submit substantiating evidence, which may include, but is not limited to, a certificate from a provider of health care of the need for the absence. The employee may be required to submit supplemental information which could include a second and third medical opinion. Circumstances of an employee falsely reporting sick leave may result in disciplinary action up to and including termination.
3. Employees who have requested leave for a qualifying condition under the Family and Medical Leave Act (FMLA) may be approved to use sick leave only to the extent that it is for one of the authorized reasons listed under NAC 284.554 and the Uniformed Services Employment and Reemployment Rights Act (USERRA).
4. **Requesting Sick Leave That is Anticipated:** If the need for sick leave can be anticipated, the employee must submit the request in advance and have the request approved prior to use. Anticipated leave must be submitted through NEATS by using the 'Request Leave' link located under My Tasks on the NEATS Home Page. The employee should then notify the supervisor, by email, of the request in NEATS.
5. If the sick leave absence cannot be anticipated, all employees must comply with the following procedure for reporting absences and will submit their "post sick leave request" in NEATS by clicking on 'Add a new Leave row' in the Leave section of the timesheet, selecting the appropriate event code for the supervisor to approve in the regular timesheet approval process.
6. Annual leave or compensatory time cannot be used for sick leave, except in extraordinary circumstances or qualifying FMLA events, and requires the approval of the Division Administrator and Agency Human Resource Services (AHRM).
7. **Procedure For Reporting Absence To Supervisor:** An employee who is absent from duty due to his/her own illness or the illness of an immediate family member must report the absence to his/her immediate supervisor or designated representative:
 - i. Prior to the start of the shift or within one-half hour after the start of the shift if unable to contact the supervisor or designated representative before start of shift.
 - ii. If direct contact with the supervisor or designated representative is not made within one-half hour of the shift, employee is additionally required to contact a co-worker, to ensure the work unit is aware of his/her absence.
 - iii. Leaving a message with a person other than the immediate supervisor or designated representative, or by a telephone or email message **does not constitute leave approval.**

- iv. The employee is required to personally notify the supervisor or designated representative unless physically unable to do so. If physically unable to do so, the employee should appoint someone to notify the employer.
8. **Employee Illness While Traveling on Department Business:** If an employee becomes ill while traveling on department business and cannot attend scheduled meetings or training sessions due to that illness, the employee must notify his/her supervisor as soon as possible. If the illness precludes traveling home on the scheduled departure time, the employee should remain at his/her current location until able to safely travel.
 - i. The employee shall use sick leave while away from scheduled activities or work.
 - ii. The employee will receive the same per diem he or she would have received if participating in scheduled meetings or training.
 9. **Employer May Place Employee on Sick Leave:** The appointing authority or his/her designated representative may place an employee on sick leave, pursuant to NAC 284.568.
 10. If consideration is being given to placing an employee on sick leave pursuant to NAC 284.568, Agency HR Services should be contacted for assistance and oversight of this process to ensure compliance with statute and regulation.
 11. If the employee is placed on sick leave pursuant to NAC 284.568, before the employee may return to work, a medical release may be required from a provider of health care which verifies that the employee is medically able to perform the essential functions of the job with or without reasonable accommodation and/or does not have a contagious illness.

E. FAMILY SICK LEAVE

1. If an employee is needed to provide care for a member of his/her immediate family, the employee may use accumulated sick leave, not to exceed 120 hours in any calendar year. The leave should be coded as family sick leave on the employee's timesheet and the relationship of the family member should be annotated in the 'Timesheet Note' section on the employee's timesheet. Family sick leave may also be used for medical, psychological, optometric, or dental service or examinations for immediate family member as described in NAC 284.554. An employee is not subject to this 120-hour limitation if the leave is approved under the Family and Medical Leave Act (FMLA).
2. When requesting an exception to the 120 hour limitation the employee must submit a written request to the appointing authority accompanied by a certification from a provider of health care which supports his/her need. The appointing authority may approve an exception to the 120 hour limitation.
3. In order to meet the notification requirements of the FMLA, a supervisor or manager who is notified or becomes aware of the medical condition of an employee or an employee's family member that may be qualifying under FMLA, that supervisor or manager must immediately consult with an AHRS representative to determine the need for required notification to the employee

under the FMLA. See the Department's FMLA Policy for more detailed information.

F. FMLA LEAVE

See separate Department FMLA Policy for detailed information.

G. FURLOUGH LEAVE

See separate Department Furlough Policy for detailed information.

H. LEAVE OF ABSENCE WITHOUT PAY (LWOP)

1. Requests for leave without pay must be submitted at least 30 days in advance when the need is foreseeable, if practicable. Supporting documentation may be required.
2. Leave without pay must be approved by the employee's Division Administrator. An employee may not use leave without pay in lieu of sick or annual leave.
3. LWOP must be granted to employees who have been authorized leave under the Family and Medical Leave Act, after the employee has exhausted all other applicable accrued paid leave.
4. In order to receive consideration for approval of leave without pay, an employee must indicate his/her intent to return to the Department. A LWOP request that exceeds one year must receive preapproval by the Personnel Commission.

I. ABSENT WITHOUT LEAVE (AWOL)

1. Any unauthorized and unreported absence must be considered an absence without leave and a deduction of pay must be made for the absence.
2. Any unauthorized or unreported absence may be considered an absence without leave and a deduction of pay maybe made for the absence.
3. Incidents of failure to report to work in a timely manner may be considered as AWOL. An employee may also be considered AWOL for failing to follow the procedure for reporting his/her absence to his/her supervisor as outlined in this policy.
4. If an employee exhausts sick leave, uses sick leave for a reason not authorized by NAC 284.554, does not have prior approval for the use of any other approved leave type, and has not been approved for leave without pay, the leave taken may be considered as AWOL.
5. AWOL status is cause for progressive disciplinary action as specified in NAC 284.594, NAC 284.646 or NAC 284.650 and the department's prohibitions and penalties. Progressive discipline ranges from an oral warning to termination.

J. OTHER TYPES OF LEAVE

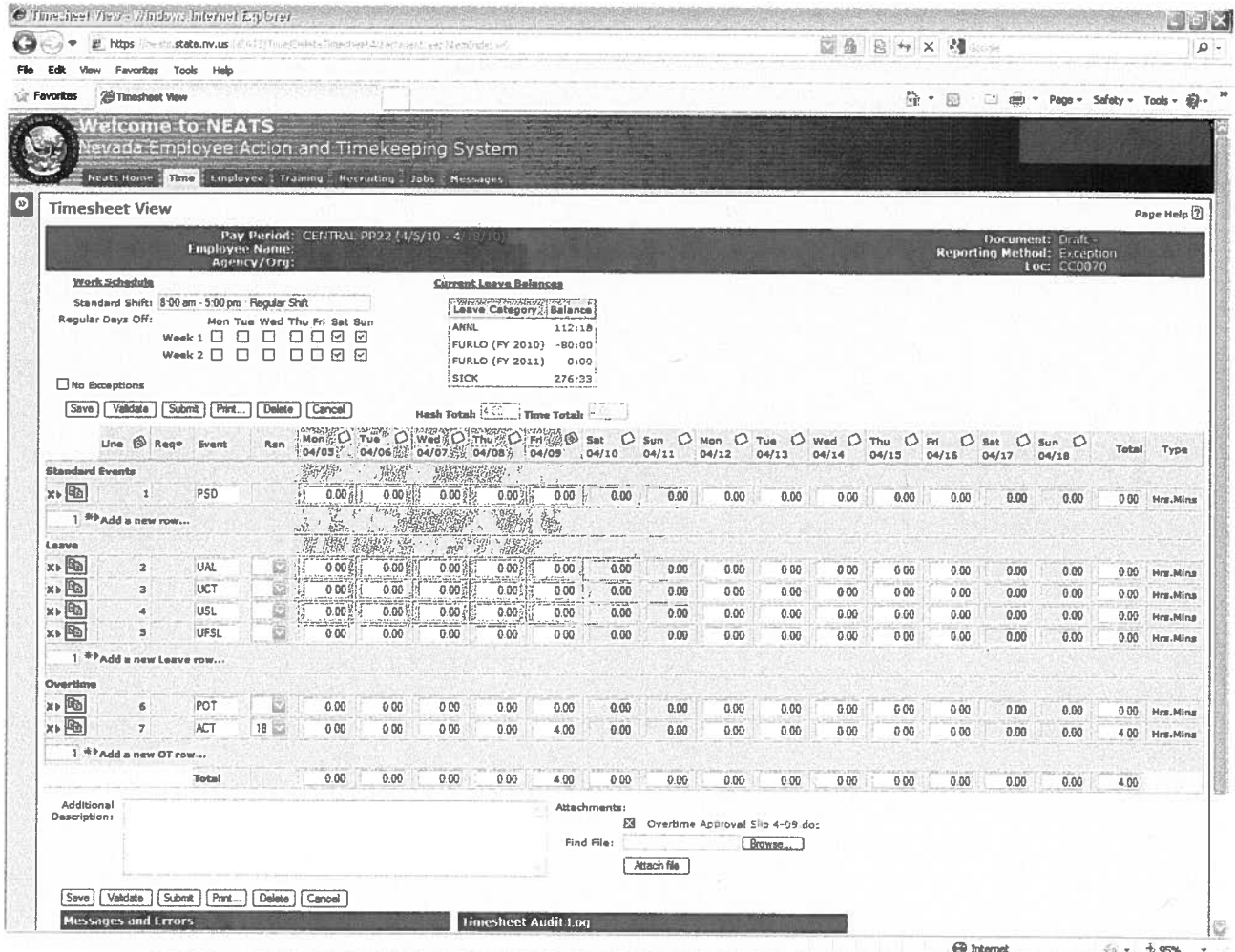
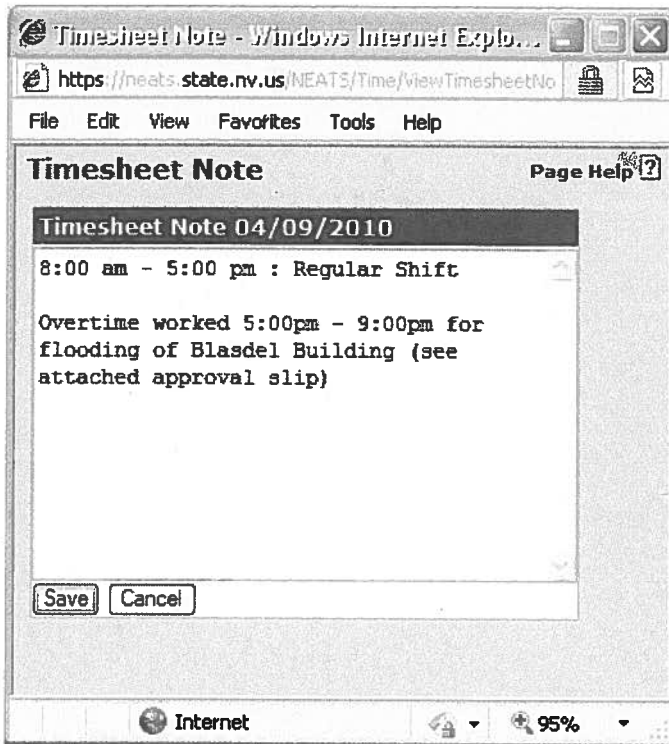
Refer to NRS 284 and NAC 284 for specifications regarding the following types of leave.

1. Release time
2. Administrative leave
3. Civil leave
4. Military leave

K. OVERTIME AUTHORIZATION

1. Overtime must be requested and approved by the employee's Division Administrators or his or her designee(s) prior to being worked. Requests for overtime must be submitted through NEATS by using the 'Request Overtime' link located under My Tasks on the NEATS Home Page at least 4 hours in advance or as soon as the employee is aware of a need for the overtime. A request for overtime does not constitute approval. Written approval must be attached to the employee's timesheet in the Attachments section if the overtime was not approved in NEATS prior to being worked.
2. All requests must be electronically approved, rejected or modified by the employee's Division Administrator or a designated supervisor in NEATS. If verbal approval is given for last minute requests this approval should be documented in an email and noted in the 'Timesheet Note' in the employee's timesheet.
3. Supervisors will ensure that the overtime request has been completed and approved before an employee submits a timesheet where overtime or compensatory time is claimed. Supervisors will also ensure the overtime hours recorded on the timesheet are accurate and that the explanation in the 'Timesheet Note' is descriptive and agrees with the reason on the overtime form.
4. Employees who record overtime on their time sheet, must:
 - i. Record the beginning and end time for the overtime hours and a brief explanation of the overtime, matching the reason on the overtime authorization form. For example, if claiming 4 hours overtime or comp time, the time of day that was worked, such as 5pm – 9pm should be typed in the 'Timesheet Note' for that particular day.

ii. For example:



AGREEMENTS AND FORMS

A. Variable Workday Agreement

1. Variable Workday Agreement (form TS-78*) is required in order to utilize innovative or flexible/variable work schedules. This mutually developed contract agreement between the employee and the Department establishes a schedule which will accommodate both the workload and advanced planning for timely work achievement, while allowing greater flexibility within an employee's workweek and often reduces the need for overtime.
2. For employees approved for a variable workday, there should never be a timesheet submitted that includes both annual leave and overtime in the same week. In other words, a timesheet should not reflect two hours of annual leave on Friday and two hours of overtime on Saturday of the same week. These two events should cancel each other out and should be noted in the 'Timesheet Note' as flex earned and used. This applies whether or not the overtime was pre-approved. An FMLA occurrence may be an exception.

B. Overtime Authorization Form

1. Division Administrators may require a hard copy Overtime Authorization Form be submitted prior to entry in NEATS. As previously outlined in this policy, overtime must not be worked without prior written approval by the Director, or his/her delegate (as otherwise outlined within this policy), and must be approved first by the supervisor.
2. Where approval is delegated to the Division Administrator as outlined in this policy and written approval for overtime within a work group is required, the written overtime request does not require the Department Director's approval.

COMPLYING WITH THE EXECUTIVE ORDER

Per the March 15, 2010 Executive Order by the Governor, which states in part: "The Policy on overtime pay is as follows, regardless of the type of schedule implemented...whether for pay or compensation time, overtime shall not be worked without prior written approval from a director." Recognizing that there are special circumstances when it is not practicable to obtain a director's prior review and written approval, directors may delegate the approval process in certain circumstances, including but not limited to:

- A. 24/7 facilities/operations where it may be necessary to work overtime to maintain safety, adequate staffing ratios or provide coverage in emergency situations;
- B. Situations where it is in the best interest of the State as determined by a director; and
- C. Work necessary to protect life, safety and wellbeing of Nevada citizens and visitors.

* Form may be found at <http://hr.nv.gov/>

Therefore, in keeping with the above stated directive within the Executive Order, the delegation/approval process for the Department of Administration is as follows:

Each Administrator incurring overtime must submit, on a quarterly basis, a report which includes the agency name, budget account, employee name, total overtime for pay and reason, and total overtime for comp time and reason. This quarterly report must be signed by the Administrator and submitted to the Director of the Department of Administration no later than 30 days after the end of the quarter.

POLICY EXCEPTION

On occasion there are special circumstances that may require an exception to this policy be granted. Exceptions, while not common, require the approval of the Division Administrator.

POLICY COMMUNICATION

This policy will be communicated to all employees and an employee should ask for clarification if needed.

Timesheet Examples (See NEATS Tutorials – [.http://www.ifs.intranet.state.nv.us/NEATSTutorials.htm](http://www.ifs.intranet.state.nv.us/NEATSTutorials.htm)) However, keep in mind that timesheet examples in tutorials show the functionality of the NEATS timekeeping system and may not be an accurate representation of this policy, e.g., Overtime in the same week leave is taken - see Guidelines for Employees, Section C.

This policy is not a substitute for relevant law or regulation nor does it establish additional rights beyond those provided in law and regulation. This policy is intended to be used in conjunction with federal regulations, State law, and the Rules for Personnel Administration (NRS & NAC 284).



Jeff Mohlenkamp, Director



Issue Date