

PERSONNEL POLICY UPDATE

APPROVED JANUARY 27, 2009

**RELATING TO SECTIONS;
6.01, 6.04, 6.07, 6.09, 6.11, 6.13 and 8.03**

6.00 WORK SCHEDULE AND TIME REPORTING

6.01 WORKWEEK AND WORK HOURS. The official work period for most county employees is a seven-day period beginning at 12:01 a.m. on Monday and ending at 12:00 midnight on the following Sunday. *All full-time employees must be accountable for a 40 hour work week. A flexible work schedule may be designed with the prior approval of the Elected Official/Department Head; however full-time employees must account for a 40 hour work week and must remain in accordance with the Fair Labor Standards Act.* Morning and afternoon breaks of 15 minutes each may be authorized by the responsible elected official or department head, but if authorized, this time does not accumulate if not taken.

1/27/09

Law Enforcement Officers, Jailers, and Telecommunications Operators work varying eight and approximate twelve hour shifts in order to provide services 24 hours each day.

In accordance with provisions of the U.S. Fair Labor Standards Act (F.L.S.A.) for public safety workers ("the Act"), the county has elected to adopt the Section 7(k) exception to the seven-day work period for the county's certified sheriff's officers and certified jailers and the salaries for the affected positions have been calculated in consideration of this exception. Those certified officers and certified jailers who are not exempt from F.L.S.A. provisions work scheduled shifts on a 28-day work period and provide, as directed, an **additional 11 hours of unscheduled work** (emergencies, court appearances, other necessary duties) for a total of 171 hours per 28-day work period. Each certified peace officer and jailer is paid a set amount for all hours worked up to 171 in a 28 day work period. Although it is not required under "the Act", the County has approved certain **other** compensation for these additional hours as follows; non-exempt certified sheriff's officers and non-exempt certified jailers, who are required to work approved additional hours may be allowed equivalent compensatory time off for the number of "hours actually worked" in excess of 160 hours in a 28-day work period. Supervisors should schedule equivalent compensatory time off within the fiscal year in which the hours were accrued. Compensatory time off, under this paragraph, may not be carried forward past the end of the fiscal year. Any unused equivalent compensatory time will be eliminated, without compensation to the employee, at the end of the fiscal year or upon termination.

In instances when a non-exempt certified sheriff's officer or non-exempt certified jailer actually works in excess of 171 approved hours in a 28-day work period, said employee shall be entitled to F.L.S.A. overtime in compensatory time at the rate of one and one-half times the number of hours worked in excess of 171 hours, in addition to any equivalent compensatory time off for the number of hours worked in excess of 160 hours and through the 171st hour.

Consideration of F.L.S.A. overtime accrual and equivalent compensatory time accrual may only be given on the basis of required and approved hours worked. An employee may not accrue overtime by voluntarily providing services which have not been required and/or approved by the appropriate supervisor.

mind. Some additional county positions are exempt from F.L.S.A. because of the administrative relationship of the position to the elected official for whom the employee works. (Legal reference: U.S. F.L.S.A. of 1938, as amended.)

Exempt employees do not receive compensatory hours off, however extra hours worked by executive, administrative, professionals, and elected officials' closest staff members, when properly recorded, may be used as a factor in granting or denying paid leave other than vacation or sick leave provided that the employee has exhausted all other types of leave, and then may be authorized by the employees direct Supervisor or Elected Official.

← ***The maximum accrual of Extra Hours worked will be 240 hours.*** Employees engaged in recreational, seasonal activities which do not operate for more than seven months in any calendar year and meet the other statutory prerequisites are exempted from the minimum wage and overtime provisions of the Fair Labor Standards Act as recreational, seasonal employees. Each county job description designates whether persons hired in that classification are exempt from or covered by (nonexempt) the overtime provisions of F.L.S.A.

6.05 SPECIAL CIRCUMSTANCES. Upon Commissioners Court approval of special circumstances, grants, declared disasters, and any other designated event, employees who volunteer for these Special Circumstances in addition to their regular position may be paid at a higher designated rate without reaching the overtime regulations stated above for special circumstances only. This will not effect the employees time for their regularly assigned position. The higher paid rate designated by Commissioners Court, may apply to both non-exempt and exempt employees as determined by the Court. This provision applies only to special circumstances that are specifically approved and designated as such by the Commissioners Court under this paragraph.

6.06 OVERTIME COMPENSATION. When emergency circumstances necessitate overtime work, nonexempt employees are compensated for the overtime worked by being given (listed in order of the county's policy preference):

- Equal time off within the same work period (usually one week; 28 days for law enforcement officers and jailers);
- Compensatory time off at one and one-half times the number of hours worked up to a maximum number of hours which may be accrued (240 hours by non-law enforcement personnel and 480 hours by law enforcement employees); or
- Automatic payment of employees who reach the maximum F.L.S.A. accrual rates.
- Under the provisions of "Special Circumstances" (see Section 6.05).

The Commissioners Court discourages time and one-half payment for overtime to non-exempt employees, which may be authorized by the elected official or department head only (1) if adequate funds are available in the department's budget, (2) the Commissioners Court has granted authority to pay overtime by a separate court order,

and (3) an emergency situation exists or Special Circumstances are approved. (4) If an employee is in excess of 80 F.L.S.A. hours at the end of the fiscal year.

In addition, the court discourages the accumulation of compensatory time off for nonexempt employees at one and one-half times the number of hours worked because of the contingent liability this creates for the county. The preferable method for overtime compensation is to schedule equal time off for the affected employee during the same work week period in which the overtime was worked.

In accordance with the Fair Labor Standards Act (F.L.S.A.) and Polk County Policy it defines overtime as hours actually worked in excess of 40 hours in a seven day work week for non-law enforcement employees and in excess of 171 hours in a 28 day period for law enforcement employees. Elected Officials and Department Heads are charged with the administrative responsibility to properly control departmental overtime by approving such hours only in emergencies and scheduling equal time off in the same work period in which the overtime was worked or as soon thereafter as possible. Upon termination, any accrued, compensable hours are paid from that departments salary budget; in some cases, a significant amount.

Any employee earning F.L.S.A. overtime hours in excess of County/F.L.S.A. maximums will be automatically paid on the employee's next occurring payroll. Polk County will pay in accordance with F.L.S.A. maximums. The expense of such payment will be debited from the Departmental budget of the Employee.

For this purpose Departments may be allowed to make budget revisions to cover overtime compensation from other approved budget line items. However, this is an issue that must be carefully supervised by the Elected Official/Department Head as to the impact on the Departmental budget.

6.07 COMPENSATORY TIME. For purposes of these policies, compensatory time applies only to non-exempt employees who actually work more than the maximum allowable straight time hours in the employee's official work period (7 days for non-law enforcement personnel and 28 days for certified law enforcement officers and certified jailers). Any F.L.S.A. compensatory time earned in excess of 80 hours must be used within the county's fiscal year or the employee will be paid at the end of the fiscal year to reduce the County's liability to no more than 80 hours of F.L.S.A. Compensatory time. This amount incurred will be compensated on the employee's last payroll of the fiscal year from the Departmental budget of the Employee. Elected officials and department heads are expected to work out mutually agreeable, **if possible**, time off for nonexempt employees who have worked overtime and earned compensatory leave during the allowable *fiscal year*. *Offices and departments may schedule nonexempt employees to use or take their accrued FLSA compensatory time at specified times as directed by the Elected Official/Department Head to reduce accumulated compensatory time.*

6.08 EQUIVALENT TIME. Equivalent time earned must be used by the end of each calendar year. Any remaining balance of Equivalent Time will be forfeited. Equivalent time is a benefit provided by Polk County – it is not required by the Department of Labor.

Unless otherwise designated by the employee Equivalent time will be used before F.L.S.A. accrued time. This would benefit the employee by retaining F.L.S.A. time for future paid leave or to be paid when in excess of the maximum accrual.

It is preferable for the supervisor and employee to schedule the use of compensatory time off within the same pay period that the overtime was worked.

6.09 HOLIDAYS WORKED. The county's basic policy is that each regular full-time employee receives a specified number of paid holidays per year, as set forth in these policies *and determined annually by the Commissioners Court*. In most instances, if a regular employee is required to work on a scheduled holiday, he or she will be given an alternate day off, preferable within the same workweek or work period. (See "Work During Holidays" section for a more detailed discussion of this policy).

An employee subject to the overtime provisions of F.L.S.A. who is required to work a full 40-hour week during a week in which he or she takes a paid holiday will receive straight-time pay for the hours worked, since a paid holiday is not considered as time worked for the purposes of determining when an employee has reached his or her maximum allowable hours (40 per week for non-law enforcement personnel; 171 hours per 28-day work period for certified law enforcement officers and certified jailers) without begin subject to overtime pay. (Legal reference: U.S. F.L.S.A. of 1938, as amended.)

6.10 LEAVE OR HOLIDAYS TAKEN AND OVERTIME. If a full-time employee who is subject to the overtime provisions of F.L.S.A. is required to work extra hours during a workweek in which he or she has used sick leave, vacation leave, or any other type of released time (including holiday time off), the employee will be given either hour-for-hour time off or pay for the extra hours at the employee's regular straight-time rate of pay. However, if the extra hours worked are more than the number of leave time hours taken, the employee will be compensated (with compensatory time off, or in emergencies, with pay) at one and one-half times the regular rate of pay for the number of extra hours worked which were not offset by the leave time hours taken. (See Holidays chapter of these policies for benefits allowable in "around-the-clock" departments when a holiday falls on a non-workday.)

6.11 TIME REPORTING. Employees shall keep records of all hours worked and released time taken and, where appropriate, hours credited to particular projects. Forms for this purpose are provided by the Human Resources Department or the County Treasurer's office.

The time period to be reported on each employee time record is a fourteen (14) day period beginning at 12:01 a.m. on Monday and ending at 12:00 midnight on the Sunday preceding each payday.

Time records must be signed by the employee and by the appropriate elected official or department head. It is recommended that these forms be filled out after each day's work in order to maintain an accurate and comprehensive record of the actual time spent on particular projects.

Each elected official or department head is responsible for ensuring that all hours worked and leave time taken are reported on the time sheets sent to the county treasurer for payroll purposes as well as being recorded on the individual department's records.

Elected Officials/Department Heads must ensure that employees are being compensated according to FLSA provisions. Timekeeping records are subject to audit by the U.S. Department of Labor.

6.12 EMERGENCY CLOSINGS. This section applies to employees of the Commissioners Court and employees of department heads appointed by the Commissioners Court. Employees of separately elected officials or of department heads appointed by other authorities may, at the separate officials option, be subject to other policies regarding hours worked and pay received.

Short-term emergency closing of Polk County offices/departments may arise due to unexpected inclement weather, prolonged power failure, or other emergency situations. In the event that a situation occurs during non-working hours which would necessitate emergency closings of Polk county offices/departments, local radio and television stations will be asked, by the County Judge's order, to broadcast an official closing statement. If an official announcement is not made by 7:30 a.m., Polk County offices/departments will operate under normal working conditions.

Compensation During Emergency Closings. When an emergency closing has been officially declared, employees will receive regular pay for the hours they would have normally worked that day.

When an emergency closing is not officially declared, employees who do not report to work will not be paid, unless the employee elects to use available Compensatory, Holiday, or Vacation leave for the period not worked. Employees who are not entitled to any of the stated leave will be docked for the working hours they miss.

If an emergency closing is declared during a work day, all employees who are at work will be compensated for their normal work day, regardless of the number of hours actually worked. Employees who are not at work will not be compensated unless prior authorization for absence has been approved by the department head or elected official.

When opening of county offices/departments has been declared, employees who report for work at the established time will be compensated for the normal work day regardless of the number of hours worked. Employees who do not report to work will be charged with accrued Compensatory, Holiday, or Vacation leave or docked pay as appropriate.

Employees who are on prior authorized vacation or sick leave will be charged with the appropriate leave.

6.13 ON-CALL. Hours spent by employees "engaged to wait" is considered compensable time. "Engaged to wait," means that the employee is required to stay on County premises or in close proximity so that the employee is not free to pursue their own interests. Hours spent by employees "waiting to be engaged" is not considered compensable time. "Waiting to be engaged" means that the employee is on-call and may use time for their own purposes but is accessible by phone (cell, etc.) or pager. Any time spent responding to calls while on-call is considered hours worked.

8.00 LEAVE TIME

8.01 DEFINITIONS.

Leave Time. Leave time is time during normal working hours in which an employee does not engage in the performance of job duties. Leave time may be either paid or unpaid.

Holidays. Holidays are days designated by the commissioners' court when county offices are closed on what otherwise would be regular business days.

Unauthorized Absence. An unauthorized absence is one in which the employee is absent from regular duty without permission of the supervisor or appropriate elected official or department head. Employees are not paid for unauthorized absences and such absences are cause for disciplinary action.

8.02 APPROVAL OF LEAVE. All leave taken by county employees must be approved by the employee's supervisor and the appropriate elected official or department head. Department heads appointed by the Commissioners Court shall submit their request for approval of leave to the County Judge. Copies of signed leave forms are sent to the Human Resources office for recording on the central leave records. County payroll records are verified against these leave records.

Elected officials and department heads are responsible for determining that leave has been accrued and is available for use in the amounts requested by an employee. In addition, they are responsible for ensuring that all vacation and sick leave usage is recorded on the time sheet sent to the County Treasurer and the Human Resources Supervisor for payroll purposes, as well as being recorded in the individual's department.

8.03 VACATION LEAVE. All regular full-time county employees are eligible to accrue paid vacation leave. County employees are encouraged to take regular vacations at least annually. New county employees are not eligible for vacation leave benefits during their first six months of employment.

After completion of the six months, five days of vacation leave are credited to the employee's account. On the anniversary date of each full year of employment thereafter, the appropriate amount of vacation leave is credited to the employee's account. Vacation leave will not be paid upon separation during the first full year of employment.

Regular, full-time employees earn vacation leave as follows:

Length of ServiceVacation Leave Earned

<i>Completion of first 6 months of service:</i>	<i>5 days</i>
<i>Completion of first year:</i>	<i>Additional 5 days</i>
<i>Completion of years 2 through 4:</i>	<i>10 days</i>
<i>Completion of years 5 through 9:</i>	<i>12 days</i>
<i>Completion of 10 through 14:</i>	<i>15 days</i>
<i>Completion of 15 through 19:</i>	<i>17 days</i>
<i>Completion of 20 or more years:</i>	<i>20 days</i>

Temporary employees (full-time or part-time), regular part-time employees, and labor pool employees do not earn vacation leave.

Accumulation of Vacation Leave. Employees are encouraged to use their accrued vacation leave each year. Carryover of unused vacation is not permitted. After 12 months from the date of accrual, any vacation leave balance is eliminated without compensation. Under extraordinary circumstances beyond the control of the employee which prevent the use of all vacation leave within the 12 month period required, one extension not to exceed 60 days may be authorized by the employee's supervising Elected Official or Department Head.

Payment for Unused Vacation Leave Upon Termination. When an employee leaves the service of the county, he or she will be paid for his or her accrued but unused vacation leave balance. The rate of pay will be determined by the salary rate in effect at the time of termination. Any employee who leaves county employment for any reason during the first full year of employment will not be paid for vacation leave.

Scheduling Vacation Leave. Elected officials and department heads should encourage their employees to schedule vacations and request leave well in advance, and vacation schedules must accommodate the county's work schedule. Provided departmental workloads will permit, employees should be allowed to select their desired vacation periods. If there is a conflict in vacation schedules involving two or more employees, employees are granted their preference on a "first come, first served" basis. If two requests are received at approximately the same time and cover the same requested vacation period, the employees will be granted their preference in accordance with their seniority. If the desired leave schedules conflict with county requirements, the county's requirements are given first consideration.

An employee may take earned vacation leave in increments of one full hour or more.

8.04 COMPENSTORY LEAVE. See the section of this manual under the main heading **Work Schedule and Time Reporting**, specifically the section on "Overtime Compensation," for information about earning compensatory time and using compensatory leave credits.