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DIRECTOR'S OFFICE MEMORANDUM 2021 – 23

EFFECTIVE: January 1, 2021

DATE: December 16, 2020

TO: Executive Policy Team
Administrative Management Team
Wardens

FROM: Heidi E. Washington, Director

SUBJECT: Overtime Distribution Process for Security Unit Employees

SUPERSEDES DOM 2020 – 26R4 (effective 12/07/2020)

Civil Service Regulation 5.02, Section 3.A.2.d.2

If sufficient notice is available and the state's best interests allow, and considering work assignments and organizational units in the agency, the employer must offer overtime opportunities as equally as practicable among employees who normally perform the assigned duties.

Overtime Distribution Process

1. Voluntary Overtime Distribution Process: An employee may, if eligible, apply for overtime assignments on each shift. Each shift will keep its own overtime Activation List that will consist of employees who have voluntarily signed up for overtime. The Activation List will be developed daily and will not be carried on to subsequent days.
 - a. Only voluntary overtime hours worked will be recorded on the Overtime Equalization List (OEL), except for Corrections Transportation Officers (CTOs), where all transportation-assigned voluntary, mandatory, and work-in-progress hours will be recorded on one OEL.
 - b. Preferences:
 - i. Facilities with 8 or 10-hour shifts
 1. First preference for overtime assignments will be given to employees who are assigned to the shift scheduling the overtime but who are on their regular day off (RDO).
 2. Second preference will go to all other eligible shifts.

3. An employee requesting to work overtime must add their name to the Activation List at least 22 hours prior to the start of the overtime shift but not more than 96 hours before the start of the requested overtime shift.
- ii. Facilities with 12-hour shifts
 1. First preference for overtime assignment will be given to employees who are assigned to the shift scheduling the overtime but who are on their RDO.
 2. Second preference will go to any employee able to work the entire overtime shift within their current work schedule without working more than 16 consecutive hours.
 3. Third preference will go to any employee able to work part of the overtime shift within their current work schedule.
 4. An employee requesting to work overtime must add their name to the Activation List at least 22 hours prior to the start of the overtime shift but not more than 38 hours before the start of the requested overtime shift.
 - iii. Corrections Transportation Officers (CTOs)
 1. All CTOs will be designated First preference. Second and Third preference will not be used.
 2. An employee requesting to work overtime must add their name to the Activation List at least 22 hours prior to the start of the overtime shift but not more than 38 hours before the start of the requested overtime shift. The list will close at 10:00 a.m. on Friday for weekend and Monday overtime. For facilities that do not have regularly scheduled transportation operations on Fridays, the list closes on Thursday at 10 a.m.
- c. All employees' names will be added to the list, and subdivided by preference. At the closing of the time for the Activation List, the hours the employee has on the OEL will be used to determine the order for the overtime selections for that shift. The employees will be ranked by who has the least amount of voluntary overtime hours worked in the quarter.
 - d. Management will offer available overtime first to the First preference employees qualified for the assignment. If enough First preference volunteers do not accept the overtime assignment, management will offer the overtime to Second preference employees qualified for the assignment. If applicable, and not enough First and Second preference volunteers accept the overtime assignment, management will then offer the overtime to Third preference employees qualified for the assignment. In each case, overtime will be offered to the employee with the lowest number of recorded overtime hours in ascending order. When there is a tie in hours recorded, the overtime will be offered to the most senior employee in each preference category.
 - e. An employee may be bypassed for voluntary overtime if they (1) do not have the special qualification needed to perform the overtime work, (2) do not possess the knowledge, skills, and abilities to perform the overtime work without training, or (3) do not meet any legally required or implied gender requirement.

- f. Work in Excess of 16 Consecutive Hours: an employee will not be charged a refusal or hours on the OEL if:
 - i. The employee refuses to work more than 16 hours of voluntary overtime or;
 - ii. The employer refuses to allow an employee to work more than 16 consecutive hours.
 - iii. In addition, the Employer will refuse to allow an employee to work three shifts in a 24 consecutive hour period except in an emergency situation. An employee shall not be charged the hours.
- g. Employees are presumed to have accepted overtime if they have signed up on the list and supervision has either contacted the employee at work or tried to contact the phone number designated by the employee. Contact with a telephone device will be presumed if the employer leaves a message or tries to leave a message on the device (e.g., voice mailbox full). Not reporting at the beginning of the shift will constitute a refusal.
- h. An employee may decline overtime after they are scheduled, but they will be charged a refusal and the hours will be counted as having worked in determining equalization.
- i. If an employee refuses voluntary overtime on three occasions within a quarter, they will not be eligible to add their name to any Activation List for the rest of the quarter, however, the employee can still volunteer to work for another employee in lieu of a mandate.
- j. An employee calling in sick to their regularly scheduled shift can remove their name from the Activation List if they have not been scheduled for voluntary overtime. If an employee has been scheduled to work voluntary overtime and needs to call in sick, they must speak to a supervisor working during the voluntary overtime shift and the employee will be charged a refusal.
- k. Employees who receive a lateral job change or bump into the worksite, or who move to a different shift, and probationary employees who become eligible to work overtime, will be inserted on the OEL with hours equal to the employee(s) with the highest number of recorded hours on their shift. Such employees will be placed at the top of the rotation for the first assignment of mandatory overtime.
- l. The voluntary OEL hours recorded for each employee will be zeroed out the 1st of January, April, July, and October.
- m. An employee on disciplinary suspension is ineligible to volunteer for overtime.

2. Mandatory Overtime Scheduling

- a. If enough qualified employees on the Activation List do not accept and work the offered overtime, the employer will assign mandatory overtime by inverse order of the lower 50 percent (rounded down to the nearest whole number) of the shift seniority list for the departing shift on a rotational basis.
- b. Mandatory overtime will be recorded by the date of instance and not hours. The list of employees eligible for mandatory overtime will be rotated with the employee(s) with the most recent date of mandatory overtime placed at the bottom of the list. Employees mandated on the same day will be placed on the bottom of the list in inverse seniority order. Employees who are

unavailable for overtime because they are not at work or are not qualified for assignment will be bypassed. Such employees will remain at the top of the list for the next mandatory overtime shift for which they are available.

- i. A separate list will be kept to track mandatory overtime of employees who are exempt from mandates under Section 2.a. If there is an operational need to mandate employees above the line, the same rotational process outlined in Sections 2.b and 2.c will be used. Management will mandate employees above the line before mandating an employee who qualifies for an exception under Paragraph 2.d or 2.e.
- c. The mandatory overtime lists will be maintained on an ongoing rotational basis.
- d. Subject to operational needs, employees will not be required to work mandatory overtime on the last scheduled shift prior to their previously approved leave time, even if there are intervening RDOs, as long as the leave time was scheduled at least 24 hours before the start of the last scheduled shift. The employee must notify the scheduling supervisor if they qualify for this exemption.
- e. Subject to operational needs, an employee will not be required to work mandatory overtime within the 32-hour period following the beginning of the last overtime shift of more than four hours the employee worked (two hours for employees assigned to 12-hour shifts). The employee must notify the scheduling supervisor if they qualify for this exemption.
- f. The highest-senior employee mandated to work overtime will be offered the first opportunity to be relieved, except that an employee whose name is up for a mandate, but who is temporarily unavailable because of being on an off-site assignment and returns to the facility remains mandated. In the absence of a volunteer, the next person will be mandated to provide coverage until the arrival of the off-site employee. Once the off-site employee arrives, the covering employee will be released and be credited with a mandate on the list even if he/she is less senior, since the mandate would have gone to the off-site employee had they been available.
- g. Management may ask for volunteers from employees present on shift before scheduling mandatory overtime.
- h. Employees working overlapping shifts are eligible to volunteer to relieve a mandate but must complete their primary shift and then report to the assignment for which they volunteered. Corrections Resident Representative, Corrections Medical Officers, Corrections Medical Unit Officers, Corrections Transportation Officers, and Special Alternative Incarceration Officers are eligible to volunteer to avoid a mandate.
 - i. If two or more Security Unit Employees volunteer for the overtime, the most-senior employee will receive the assignment.
 - ii. Overtime hours accrued under these circumstances will not be recorded on the OEL.

3. Additional Information

- a. An employee who has actually worked 120 or more hours since the beginning of the pay period is ineligible for voluntary or mandatory overtime for the rest of the pay period. Subject to approval by an appropriate Administrator, a facility may allow officers who reach 120 hours of actual work during a pay period to work up to 160 hours of actual work during the pay period,

provided that any voluntary overtime worked beyond 120 hours is limited to a single overtime shift on each of the employee's regularly scheduled days off.

- b. Probationary employees may be authorized to work voluntary and mandatory overtime after completing six (6) months of satisfactory service.
- c. Work-in-progress must be completed by the employee performing the work. Except for CTOs (see Section 1.a), overtime hours incurred due to work-in-progress will not be added to the OEL and will not be considered voluntary overtime nor count as mandatory overtime for purposes of administration of the lists.
- d. In the event two or more employees have the same seniority, the tie breaker will be by the highest New Employee School graduation score. To break any tie thereafter, or when one or more employees do not have a New Employee School graduation score, the last four digits of the employee's Social Security number shall be used, with preference going to the employee with the lowest number.
- e. In an organizational unit with 100 or fewer security-unit employees, the mandatory list may consist of all security-unit employees in active payroll status within the organizational unit.
- f. An employee may request an exemption from mandatory overtime once during each 3-month quarter of the year (Jan.-March, April-June, July-Sep., and Oct.-Dec.). Approval is subject to operational and staffing needs at the time of the request. The request for the exemption must be made at the time the employee is notified of the mandatory overtime assignment. If approved, the next person in line for mandatory overtime cannot exercise an exemption. An exemption not used during a quarter cannot be carried over to the following quarter.
- g. Corrections Shift Supervisors (Sergeants, Lieutenants, Captains) and Corrections Security Inspectors (Inspectors) may volunteer to work an assignment to relieve or avoid an officer being mandated.
 - i. If sufficient notice is available and the state's best interests allow, and considering work assignments and organizational units in the agency, MDOC will offer overtime opportunities as equally as practicable among employees who normally perform the assigned duties.
 - ii. MDOC will assign voluntary overtime in seniority order on a rotational basis. Voluntary overtime will be recorded by the date of instance, not hours. The list of employees eligible for voluntary overtime will be rotated with the employees with the most recent date of overtime placed at the bottom of the list.
- h. If there is an operational need and with appropriate Deputy Director approval, the employer may mandate Corrections Shift Supervisors (Sergeants, Lieutenants, Captains) or Corrections Security Inspectors (Inspectors) to assist with security unit work.
 - i. A single list will be kept to track mandatory overtime for Corrections Shift Supervisors and Corrections Security Inspectors. The same rotational process outlined in Sections 2.b through 2.h will be used.

- i. Subject to operational needs or in case of an emergency, overtime may be assigned without regard to the above process.