

Michigan Civil Service Commission

Regulation 5.02

Subject:		
Overtime, On-Call, and Callback Compensation		
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1. Purpose

This regulation establishes ~~the standards for the~~ to ~~payment of~~ overtime, on-call ~~compensation,~~ and callback compensation.

2. CSC Rule References

5-4 Additional Compensation: Overtime, etc.

5-4.1 Additional Compensation

An appointing authority may require an employee to work under special conditions. An eligible employee working under the following special conditions is paid the pay premiums provided in this rule in accordance with the regulations.

5-4.2 Overtime

(a) Eligibility. The compensation schedules must identify each classification that is eligible for overtime pay. Overtime pay is paid to eligible employees for time in pay status, excluding sick and annual leave, in excess of 40 hours in a week or as otherwise provided in the regulations.

(b) Rate. The overtime rate of pay is one and one-half times the employee's regular rate of pay, as defined in the regulations. The regulations may provide for accrual of compensatory time at the premium rate instead of a cash payment.

5-4.3 On-call

(a) **Eligibility.** *The compensation schedules must identify each classification that is eligible for on-call pay. On-call pay is paid to an eligible employee who is scheduled to be available to return to duty, work-ready, within a specific time.*

(b) **Rate.** *The on-call rate of pay is one hour of straight time pay for each 5 hours of on-call time.*

5-4.4 Callback

(a) **Eligibility.** *The compensation schedules must identify each classification that is eligible for callback pay. Callback pay is paid to an eligible employee who is not on scheduled on-call status but is called back to duty outside of normal working hours.*

(b) **Rate.** *Callback pay is paid at the overtime rate of pay. An eligible employee is paid for a minimum of 3 hours unless called back within 3 hours of the employee's regular starting time.*

3. Standards

A. Eligible Employees.

1. Employees in classifications ~~that are assigned~~with an eligibility code of "N" are eligible for overtime. Eligible is represented as "non-exempt" in ~~the Human Resources Management Network-HRMN~~system ~~(see the Compensation Plan for eligibility codes)~~. When processing a preauthorized reclassification, ~~the an appointing authority~~agency ~~must~~shall enter the assigned eligibility code for the new classification level as reported in Section A of the Compensation Plan.

2. Overtime.

a. Rate.

~~(1)~~ The overtime rate is ~~one and one half~~1.5 times the employee's regular rate.

~~(2)~~ The regular rate is ~~defined as~~ the employee's base pay ~~rate of pay~~ plus any applicable shift premium, special pay premium (e.g., prison rate), on-call, longevity, or other pay, except overtime premium.

b. Basis.

(1) Overtime payment is made to eligible employees for time worked in excess of 40 hours in a week, unless another calculation method authorized under federal law is used.

(2) Premium payment ~~must~~cannot be duplicated ~~(or pyramided)~~ for the same hours worked.

(3) Time worked is defined as ~~all the following~~:

(a) ~~All~~ hours actually spent in pay status, excluding sick, ~~and~~ annual, ~~and~~ union leave, ~~and~~ and

- (b) ~~T~~Travel time required by and at the ~~discretion of the~~ employer's discretion before, during, or after ~~the~~ a regularly scheduled workday.
- (4) All paid leave, except sick, ~~and~~ annual, ~~and~~ union -leave, ~~is counted~~ as time worked ~~for to~~ compute overtime. Holiday credit ~~is counted~~ as time worked in computing weekly (or other longer period authorized under federal law) overtime only. If an employee works on a holiday, premium payment for the first 8 hours worked on the holiday is due and payable only when 40 hours in a week (or other amount authorized under federal law) are exceeded. The employee may, with the ~~approval of the~~ employer's approval, take another day in the same period as the holiday.
- (5) Unless otherwise authorized by the state personnel director, ~~A~~ a day is defined as a 24-hour period beginning and ending at 12:01 a.m., midnight ~~unless otherwise authorized by the State Personnel Director~~.
- ~~(6) A~~ and a week is defined as a ~~7~~ seven-day period beginning ~~at 12:01 a.m., Sunday and ending Saturday, unless otherwise authorized by the State Personnel Director~~.
- ~~(7)~~ Unless otherwise authorized by the state personnel director, ~~A~~ a biweekly work period consists of 80 hours of work, normally performed on 10 workdays within the 14 consecutive ~~calendar~~ days that coincide with ~~the~~ current pay periods. A biweekly pay period is ~~considered~~ complete if the actual time worked, plus any paid administrative, annual, sick, paid or reimbursed union, military, or holiday leave, equals or exceeds 80 hours. ~~The premium for overtime hours worked is not counted as work time~~.

c. **Control.**

- (1) ~~The~~ An appointing authority ~~agency has the right to~~ may require an employee to work overtime, and shall ~~to~~ ensure that ~~the~~ an employee does not work unauthorized overtime.
- (2) ~~The~~ An appointing authority ~~agency shall~~ is responsible ~~establish policies for~~ scheduling and authorizing overtime.
- ~~(3) The appointing authority must establish policies and procedures for scheduling and authorizing overtime~~.
- ~~(4)~~ The An appointing authority agency is responsible for pay for all overtime worked, even if ~~overtime worked was not~~ unauthorized, ~~and if~~ the agency accepts the benefits of the overtime work ~~are accepted by the appointing authority~~.

d. **Scheduling.**

- (1) ~~The~~ An employee's daily or biweekly work schedule ~~of an employee~~ may be changed temporarily. ~~The~~ An agency shall post or provide notice of an employee's work schedule ~~must be posted or the employee must be notified of the next biweekly work schedule not less than~~ at least 96 hours before ~~the beginning of the~~ a biweekly work period begins. If ~~the employee's work schedule is changed during a biweekly work period or within 96 hours prior to the beginning of a pay period for the following pay period~~ the agency does not, the employee is eligible for overtime payment for all hours worked outside ~~of~~ the employee's original work schedule for ~~the balance of the~~ that affected pay period.
- (2) ~~To the extent that~~ If sufficient notice is available and the state's best interests ~~of the state~~ allow, and ~~giving consideration to~~ ing work assignments and organizational units in the agency, the employer must ~~schedule~~ offer overtime ~~work opportunities~~ as equally as practicable among employees who normally perform the assigned duties.
- (a) An employee who declines to work overtime is counted as having worked in determining this "equal share."
- (b) If ~~an insufficient number of~~ enough employees normally performing the duties ~~do not~~ volunteer, ~~the agency may offer to work~~ overtime, ~~the overtime may be offered~~ to other employees qualified to do the work.
- (c) ~~The~~ An agency ~~appointing authority~~ may mandate overtime ~~when an insufficient number of~~ if enough employees ~~do not~~ volunteer for scheduled overtime or there is an emergency.
- (d) Unless an agency work rule establishes a different period, overtime equalization is evaluated based on opportunities offered to perform overtime work over a calendar year. In any grievance over inequitable overtime opportunities, relief is limited to subsequent overtime opportunities.
- e. **Timekeeping.** An agency shall maintain ~~P~~ positive timekeeping records ~~must be maintained at the agency~~ for all eligible employees. Positive timekeeping ~~is defined as~~ must recording the total number of hours worked and ~~the total number of~~ leave hours used ~~on a each~~ daily and weekly basis with weekly totals.
- f. **Timeliness of Payment.** The employer ~~must~~ shall make a good-faith effort to ~~make payment~~ for overtime ~~worked on~~ the payday ~~of the first pay period following for~~ the biweekly work period ~~in which~~ when the overtime is worked.
- g. **Compensatory Time.**

- (1) With the employer's approval ~~of the employer, the an~~ employee may, ~~upon request, to~~ accrue compensatory time at the premium overtime rate ~~(time and one half) instead lieu~~ of receiving payment for overtime, if ~~agreement to accrue compensatory time is reached~~ agreed to before the work is performed.
- (2) ~~The An agency appointing authority~~ may adopt an maximum-accrual limit of up to 240 hours of compensatory time. ~~In the case of For~~ an employee engaged in public ~~—~~safety, emergency ~~—~~response, or seasonal activity, ~~the an agency appointing authority~~ may adopt an maximum-accrual limit of up to 480 hours.
 - (a) Public ~~—~~safety activity refers to employees employed to who enforce laws, ~~and~~ maintain peace and order, ~~who~~ have the power to arrest, and ~~have undergone, had~~ or are undergoing, specialized training. It includes Ssecurity personnel in correctional institutions facilities, ~~by specific mention, are likewise covered.~~
 - (b) Emergency ~~—~~response activity refers to rescue work and ambulance services.
 - (c) Seasonal activity refers to work during lengthy regular recurring periods of significantly increased demand.
- (3) When compensatory time is approved, the employee ~~must be is~~ paid, ~~by gross pay adjustment,~~ for all premiums (e.g., shift, hazard except T-rate and G-rate, etc.) due for ~~the overtime~~ hours worked at a ~~time and one half~~ the overtime rate.
- (4) With the employer's approval ~~of the employer, the an~~ employee may, ~~upon request, have~~ a work ~~—~~schedule adjustment within the week ~~instead lieu~~ of an accumulation ~~of~~ overtime. Adjustments are not allowed ~~For~~ employees working in hospitals and residential ~~—~~care facilities, ~~such adjustments are not allowed.~~

h. ~~Scheduling of~~ Compensatory Time.

- (1) Compensatory time is used at the ~~convenience of the~~ employee's convenience subject to supervisory approval based on criteria for applicable to the use ~~of~~ annual leave. The employer ~~is required to shall~~ honor all requests for compensatory ~~—~~time use off, unless ~~to do so it~~ would be "unduly disruptive."
- (2) Compensatory time must be used before annual leave, ~~except when unless~~ an employee at the ~~maximum annual leave~~-accumulation cap would ~~thereby~~ lose annual leave.
- (3) If ~~the an~~ employee has not used accrued compensatory time ~~before the end of~~ during the fiscal year ~~in which the time has been when~~ accrued, the employee

may be paid ~~at the base rate~~ for the unused compensatory time at the higher of the base rate ~~unused at the end of the fiscal year~~, or ~~at~~ the average base rate ~~received~~ during the last 3three years, ~~whichever is higher. If the employee is not paid for the a~~ Accrued compensatory time, that is not paid off it is carried forward ~~in~~ to the next fiscal year.

- (4) Unused accrued compensatory time ~~accruals~~ of an employee who resigns, retires, is dismissed, or moves to another different agency appointing authority ~~are is~~ paid at the higher of the employee's current base ~~hourly~~ rate, or ~~at~~ the average base rate ~~received~~ during the last 3three years, ~~whichever is higher~~.
- (5) Unused accrued compensatory time ~~accruals~~ of an laid-off employee ~~who is laid off are is~~ paid at the higher of the base rate, or ~~at~~ the average base rate ~~received~~ during the last 3three years, ~~whichever is higher~~. This does not apply to temporary layoffs.
- (6) Accrued ~~Freezing of e~~compensatory time ~~accruals is cannot allowed be frozen~~.

3. **On-Call Compensation.**

a. **Rate.** Employees scheduled for on-call duty are ~~compensated~~ paid at the rate of 1one hour of straight-time pay for each 5five hours of on-call duty.

b. **Basis.**

- (1) "On-~~C~~call" is ~~defined as~~ the scheduled state of availability to return to duty, work-ready, within a specified time period. General availability ~~of employees~~ as "backup" to working personnel ~~in the event of if~~ an extreme emergency occurs is not ~~considered as~~ on-call.
- (2) An employee actually required to return to duty is compensated ~~in accordance with under~~ the regulations on callback ~~compensation~~ for ~~those~~ hours actually worked or for which payment ~~under the callback procedure is made (see required under § 3.A.4)~~.
- (3) An employee is not paid on-call ~~compensation pay~~ for regularly scheduled duty hours or while on paid authorized leave.

c. **Control.**

- (1) The employer ~~has the right to may~~ require an employee to be on-call ~~or to schedule on-call work~~ as needed in the manner most advantageous to the employer and consistent with the requirements of state employment and the public interest.
- (2) An agency must establish pPolicies ~~and procedures for to~~ authorization and pay ~~forment of any~~ on-call time ~~must be established by the appointing authority~~.

d. **Scheduling.**

~~(1)~~ An employee scheduled by an agency appointing authority for on-call duty ~~is required to~~ shall remain available through a pre-arranged means of communication.

~~(2)~~ An employee ~~in on~~ on-call duty ~~status~~ who is ~~not~~ unavailable when contact is attempted or ~~who is not~~ cannot able to report, work ready, to duty within the prescribed time ~~period~~ is ~~not~~ ineligible for on-call ~~compensation pay~~ for that date and may be ~~subject to~~ disciplined ary action.

e. **Timekeeping.** An agency shall maintain ~~P~~positive timekeeping records ~~must be maintained at the agency~~ for all eligible employees as defined in § 3.A.2.e. Work-schedule adjustments cannot be made based on on-call time.

f. **Method of Payment.** The employer ~~must~~ cannot award compensatory time in lieu of payment ~~compensate employees~~ for on-call time ~~in cash~~.

g. **Timeliness of Payment.** The employer ~~must~~ shall make a good-faith effort to pay for on-call duty on the payday of the ~~first~~ pay period ~~following the biweekly work period in which the on-call duty is worked~~ of the duty.

h. **Overtime Impact.** Compensation Pay earned for on-call time is included ~~as part of in~~ the regular rate for overtime premium computation ~~(see § 3.A.2.a(2)), but The h~~ hours on-call, ~~however,~~ are not ~~used in this computation; only the dollar amounts are used~~.

4. **Callback.**

a. **Rate.**

(1) Full-time employees called back to duty are paid at ~~established~~ the overtime rates ~~as outlined~~ established in § 3.A.2.a.

(2) Less than full-time employees are compensated at straight-time rates, unless ~~by virtue of the~~ callback ~~the employee works~~ hours worked qualifying for overtime under § 3.A.2.b(1).

b. **Basis.**

(1) Employees ~~called back~~ contacted to report to duty outside ~~of~~ their normal working hours ~~are guaranteed~~ receive a minimum of ~~3~~ three hours of pay, except that employees ~~are~~ must be compensated for the actual ~~amount of~~ time worked if ~~either of the following apply:~~

(a) ~~They are~~ called back to duty within ~~3~~ three hours of their ~~ir~~ regular starting time; or,

~~(b) The~~ period of callback duty exceeds ~~3~~ three hours.

- (2) Employees on ~~scheduled~~ on-call status are not paid on-call ~~compensation pay~~ for callback ~~–~~ duty hours.

c. **Control.**

- (1) The employer ~~has the right to~~ may call an employee back to duty and ~~to~~ schedule necessary callback duty ~~as necessary~~ in the manner most advantageous to the employer and consistent with the requirements of state employment and the public interest.

- (2) An agency must establish pPolicies ~~and procedures for to~~ authorization and ~~payment of for any~~ callback duty ~~must be established by the appointing authority~~.

- d. **Timekeeping.** Positive timekeeping records must be maintained at the agency for all eligible employees as defined in § 3.A.2.e.

~~e. **Method of Payment.** The employer must compensate employees for callback time in accordance with § 3.A.2.f.~~

~~f. **Scheduling of Compensatory Time.** The scheduling and use of compensatory time must be in accordance with § 3.A.2.h.~~

~~g. **Timeliness of Payment.** The employer ~~must~~ shall make a good-faith effort to pay for callback duty on the payday of the ~~first~~ pay period ~~following the biweekly work period in which~~ when the callback duty is worked.~~

B. Ineligible Employees.

1. Employees in classifications ~~with that are assigned~~ the eligibility code of “Y” are ineligible for overtime. Ineligible is represented as “exempt” in ~~the Human Resources Management Network HRMN system (see the Compensation Plan for eligibility codes).~~

2. **Work Schedules.**

a. **Scheduling and Control.**

- (1) Work schedules for ineligible employees are established by the ~~agency appointing authority~~. Employees are normally present during the regular course of the workday. ~~However, it is recognized that~~ but demands ~~on their time~~ may vary ~~from one by~~ pay period ~~to another~~. Absences without charge to leave credits may be granted for any period of time, ~~providing if~~ the ~~agency appointing authority~~ certifies that the employee has completed the equivalent of a full pay period.

- (2) ~~The~~ An agency appointing authority can instead adopt a formalized compensatory ~~–~~ time plan for ineligible employees ~~in lieu of the above~~. If a ~~compensatory time~~ plan is used, the following conditions must be met:

- (a) Sick, ~~and~~ annual, ~~and paid or reimbursed union~~ -leave used in the work period ~~must cannot be counted towards the~~ eligibility ~~for to~~ accruing compensatory time.
- (b) The employee ~~must be is~~ paid ~~by gross pay adjustment~~ for all premiums (e.g., shift, hazard except "P"-rate, etc.) due for the overtime worked.
- (c) ~~The agency must maintain p~~Positive timekeeping records ~~must be maintained~~ for all ~~covered~~ employees ~~covered as defined in § 3.A.2.e. Positive timekeeping is defined as recording the total number of hours worked and the total number of leave hours used on a daily and weekly basis.~~
- (d) Compensatory time is used at the ~~employee's~~ convenience ~~of the employee~~ subject to supervisory approval based on criteria applicable to ~~the using~~ of annual leave.
- (e) Compensatory time must be used before annual leave, ~~except where unless~~ an employee at the ~~maximum annual leave~~ accumulation cap would ~~thereby~~ lose annual leave.
- (f) Ineligible employees ~~must can~~ not be paid for unused compensatory accruals ~~at any time~~, except as provided in rule 5-4.6.
- (g) Employees in the Senior Executive Service and ECP Group 4 ~~are not cannot~~ eligible to accrue compensatory time, except as provided in rule 5-4.6.
- b. **Overtime.** ~~The An agency appointing authority~~ must obtain prior approval from Civil Service to compensate ineligible employees for overtime hours worked.
- (1) ~~Agency Appointing authority~~ requests ~~for approval to~~ pay overtime to ineligible employees must be submitted to Civil Service.
- (2) Overtime approval requests must contain the employee's name, ~~employee identification ID~~ number, classification, ~~and~~ position code, ~~and a~~ justification ~~for request~~, beginning date, and ~~expiration end~~ date. The request must also contain the criteria ~~for to~~ payment of overtime if other than for time worked in excess of 40 hours in a week.
- (3) ~~Appointing authorities must assign e~~ Employees working an alternative work schedule ~~to have~~ an 80-hour biweekly work period, if this minimizes overtime eligibility (e.g., an employee normally scheduled to working 45 hours in the first week and 35 hours in the second week of ~~the a~~ pay period does not qualify for overtime for normally assigned hours.)
- (4) Sick, ~~and~~ annual, ~~and paid or reimbursed -union~~ leave used ~~during~~ the work period ~~may cannot be counted towards reaching~~ the threshold ~~required~~ for overtime eligibility.

(5) If approval is granted to pay overtime, the employee ~~is must be compensated~~ paid at a premium rate ~~to be~~ determined as follows:

(a) If the employee's hourly rate is less than the highest rate of eligible employees, the ~~overtime rate employee is paid is time and one half 1.5 times the employee's regular rate~~ overtime rate employee is paid is time and one half 1.5 times the employee's regular rate ~~for overtime~~.

(b) If the employee's hourly rate is greater than the highest rate of eligible employees, the ~~overtime rate employee is paid is the greater of straight time or time and one half 1.5 times the highest rate of eligible employees, or straight time, whichever is greater~~ overtime rate employee is paid is the greater of straight time or time and one half 1.5 times the highest rate of eligible employees, or straight time, whichever is greater.

~~—NOTE: Refer to the Introduction section of the Civil Service Compensation Plan for current overtime rate information.~~

(c) ~~If the E~~ employee's ~~whose~~ work assignments result in premiums being added to their ~~base rates,~~ (e.g., shift differential, "P" ~~rate,~~ etc.), ~~must have~~ the ~~overtime rate~~ is adjusted by the amount of the premium in the same proportion.

3. **On-Call.** ~~The An agency appointing authority~~ must obtain prior approval from Civil Service to compensate ineligible employees for on-call duty under special circumstances.

a. ~~Appointing authority r~~ Requests for approval to pay on-call ~~compensation pay~~ to ineligible employees must ~~be submitted to Civil Service. This request should~~ address the following ~~criteria~~:

(1) Physical restrictions ~~placed~~ on the employee while on-call.

(2) Maximum ~~period of~~ response time allowed.

(3) Percentage of calls expected to be returned ~~by the on-call employee~~.

(4) Frequency of expected calls during on-call time.

(5) Potential use of ~~the~~ on-call time by the employee.

(6) Disciplinary action ~~taken against~~ for employees who fail to answer calls.

b. If approved, ~~compensation on-call pay~~ is paid at the rate of ~~1~~ one hour of straight-time credit for each ~~5~~ five hours of on-call duty.

c. If compensatory time is used ~~instead~~ lieu of payment for on-call ~~compensation pay~~, scheduling and use of compensatory time ~~must be~~ is in accordance with § 3.B.2.a.

d. Employees called back to work while in on-call status ~~will continue to~~ receive on-call ~~payment~~ while on callback duty, unless exception has been granted to pay ~~employees~~ callback pay.

4. **Callback.** ~~The~~ An agency ~~appointing authority~~ must obtain prior approval from Civil Service to compensate ineligible employees for callback duty under special circumstances.
 - a. If approved, employees are compensated in the same manner as eligible employees (~~see under~~ § 3.A.4).
 - b. ~~Computation of p~~ Premiums and payments must be computed in accordance with ~~the regulations for overtime compensation pay (see under~~ § 3.B.2.a).

C. Exceptions.

An agency may request that the state personnel director approve ~~E~~ exceptions to the above standards for non-exclusively represented employees ~~may be requested by the appointing authority. These requests should be submitted to the State Personnel Director.~~

CONTACT

Questions on this regulation may be directed to Compensation, Civil Service Commission, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909; by telephone at 517-241-0837 or 517-373-7618; or to MCSC-Compensation@mi.gov.