



STATE OF ARKANSAS

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PERSONNEL

ADVAP 2-5

August 1, 2013

Fair Labor Standards

1. **GENERAL:** Arkansas Code §19-4-1612, states: "Overtime. It is hereby declared to be the policy of the State of Arkansas that overtime pay for state employees is the least desirable method of compensation for overtime work." The Code further states that "all state departments, agencies, boards, commissions and institutions may pay overtime to its employees, under the rules and regulations set out by the Federal Fair Labor Standards Act." It is also held to be the policy of the state that the provisions of the Fair Labor Standards Act (FLSA), as amended, be adopted and implemented as the basic wage and hour policy of the state. Further, it is held to be the policy of the State of Arkansas that any overtime work necessary to the continued effective operations of the state shall be managed in the most efficient and economic manner possible. An employer may provide an exempt employee with additional compensation without losing the exemption or violating the salary basis requirement, if the employment arrangement also includes a guarantee of at least the minimum weekly-required amount paid on a salary basis. Compensatory time for exempt employees will accrue at a 1:1 ratio. Such additional compensation may be paid on any basis and may include paid time off.

2. **SCOPE:** Agency Administrators are responsible for establishing and maintaining complete and accurate records regarding compensatory time earned and used, and overtime earned and paid by recording time earned on form ADVA Form 83. The immediate Supervisor, Veterans Home Administrator, Cemetery Manager or ADVA Deputy Director, as appropriate, must approve compensatory time and overtime pay in advance on ADVA Form 83 - Authorization to Earn Compensatory Time.

3. REFERENCES:

- a. Fair Labor Standards Act of 1938.
- b. Federal Fair Labor Standards Act, Public Law 99-150 of 1986, revised 2010.

4. DEFINITIONS:

- a. Exempt - those employees not covered by the Act (Positions in subordinate categories which are applicable to the state service, i.e., Executive, Administrative and Professional).
- b. Non-exempt - those employees covered by the Act. A list of these positions is found at Attachment 1.
- c. Compensatory Time - Time earned for work performed in excess of 40 hours in the workweek.
- d. Overtime Pay - Time earned for work performed in excess of 40 hours in the workweek.
- d. Accrual Rate - One and one-half times the number of hours worked in excess of 40 hours.
- e. Work Hours - Time spent working. Time spent on vacation, sick leave and holidays are not counted as time worked. Such time off must be included in straight time pay for non-exempt employees, but is not included in computing hours of work for overtime.

5. POLICY: See ADVAP 2-3, Time/Leave/Holidays Procedure on how compensatory time/overtime is earned and how to request to use earned compensatory time.

6. SUPERSESSION: This procedure supersedes ADVAP 2-5, August 27, 2004, in its entirety.

7. FORMS PRESCRIBED:

- a. ADVA Form 83 – Authorization to Earn Compensatory Time
- b. ATCH 1 - Non-Exempt Positions

By:

Nathaniel (Nate) Todd
Director

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