



DEPARTMENT OF MANAGEMENT SERVICES
DIVISION OF STATE HUMAN RESOURCE MANAGEMENT
POLICY GUIDELINE

STATE PERSONNEL SYSTEM

SUBJECT:

Emergency Conditions: Administering Essential Services Performed During Facility Closures and Administering Extraordinary Pay

POLICY GUIDELINE: HRM #2017-003

EFFECTIVE DATE: February 3, 2020
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SUPERSEDES: N/A

STATUTES/RULES/REGULATIONS/LAWS:

Rule 60L-32.0071, Florida Administrative Code (F.A.C.), Selected Exempt Service Extraordinary Payment Plan;
Rule 60L-34.004(3), F.A.C., General Requirements for Leave Earning, Approval, and Use;
Rule 60L-34.0043(5), F.A.C., Regular Compensatory Leave;
Rule 60L-34.0071(3)(e)1.a., F.A.C., Administrative Leave; Closing facilities under emergency conditions;
Section 112.24, Florida Statutes (F.S.), Intergovernmental interchange of public employees

FORMS: N/A

ADDITIONAL REFERENCE MATERIALS: N/A

BACKGROUND:

When state owned or operated facilities are closed in response to an emergency condition, a significant number of State Personnel System (SPS) agencies must continue to provide services during the emergency. This means that some employees may be required to work while a facility is actually closed and other non-essential employees have been released from duty. In addition, employees may be directed to work an extraordinary number of hours above and beyond their regular schedules on responsibilities associated with the emergency.

In recognition of the work performed during the period of a facility closure when non-essential employees have been released from duty, the state provides special compensatory leave to essential employees below the level of bureau chief or bureau chief comparable who are required to work. In order to compensate employees who work an extraordinary number of hours beyond their regular schedules on responsibilities associated with the emergency, agencies may also activate one or both of their extraordinary pay plans (i.e., Career Service Regular Compensatory Leave Payment Plan and SES Extraordinary Payment Plan) which have been approved by the Department of Management Services-Division of State Human Resource Management (DMS-HRM) prior to the emergency. These plans provide a process to pay employees required to perform work related to the emergency that is beyond their regular daily scheduled hours and is also above the pay period contracted hours. Although extraordinary pay plans may also be activated in response to an unforeseen critical event for periods when there is not a facility closure, the plans are often activated when facilities have been closed because of an emergency condition.

SCOPE AND PURPOSE OR ISSUE:

DMS-HRM has prepared this policy guideline as a tool to assist SPS Human Resource professionals with the consistent administration of recording hours for essential services performed when facilities are closed and with the recording and processing of extraordinary pay.

The scope and purpose of this policy guideline is to clarify the definition of essential services associated with a facility closure and to describe how employees must record essential work hours. In addition, it outlines the framework for administering SES Extraordinary Payment Plans and Career Service Regular Compensatory Leave Payment Plans including the recording of these hours on employees' timesheets. It also addresses the interaction of these two employee benefits when a facility closure occurs during the activation of an extraordinary pay plan.

Note: When the Governor issues an Executive Order for an emergency, SPS Human Resource professionals should review the order to determine if specific guidance and/or direction is provided regarding leave administration for that particular emergency.

This guideline is applicable to SPS employees in positions assigned to the Career Service and the Selected Exempt Service below the level of bureau chief or bureau chief comparable. Although employees in Other Personal Services (OPS) positions may be directed to work during a period when a facility is closed, they are not eligible for any state provided leave benefits and only receive pay for the hours actually worked, including overtime when applicable. Employees occupying positions within the Senior Management Service (SMS) may also be directed to work during the period a facility is closed due to an emergency, but they are not covered by the special compensatory leave provisions associated with work performed when a facility is closed as provided in Rule 60L-34.0071(3)(e)1.a., F.A.C. In addition, SMS employees are not eligible for extraordinary pay associated with extra hours worked in response to an emergency.

DEFINITIONS:

For purposes of this guideline, the following definitions apply:

Essential Services – As used in Rule 60L-34.0071(3)(e)1.a., F.A.C., this term describes any work an employee is directed, assigned, or required to perform during a period when the employee's regularly assigned facility is closed due to an emergency condition. The required work may be performed away from the employee's regular work location, including another area of the state regardless of whether that location remains open or is also closed due to an emergency.

Extraordinary Pay – Pursuant to Rule 60L-34.0043(5), F.A.C., and Rule 60L-32.0071, F.A.C., this term refers to the payment made for extraordinary hours worked in accordance with the SES Extraordinary Payment Plan and/or the Career Service Regular Compensatory Leave Payment Plan that has been approved by DMS-HRM prior to an activation. When employees are required to work extra hours beyond those in their regular work schedule in response to an emergency event or critical condition, the agency may activate their approved SES Extraordinary Payment Plan and/or Career Service Regular Compensatory Leave Payment Plan for a defined period of time. Only extra hours worked by employees while the payment plans are activated that are above the hours in the pay period (bi-weekly, monthly, or approved extended period) and are in addition to the employee's regular scheduled workday hours are then paid on an hour-for-hour basis at the employee's regular rate of pay. An employee's annual leave, sick leave, compensatory leave, and any administrative leave must be offset prior to any extraordinary hours being eligible for payment.

QUESTION AND ANSWER:

Question 1:

When employees are required to perform essential services during a period that a facility is closed, how is the time worked recorded on the timesheet?

Answer:

Pursuant to Rule 60L-34.0071(3)(e)1.a., F.A.C., the employees who provide essential services accrue special compensatory leave credits for the hours actually worked during the period their assigned facilities are closed if they are in positions below the level of bureau chief or bureau chief comparable. The time worked providing essential services while a facility is closed, including any time worked beyond the employee's regularly scheduled workday, must be recorded on the People First timesheet using Hours Type 1006 – WORK ESS SVC/OFC CLOSURES. When the employee's timesheet is approved, the People First system will automatically provide special compensatory leave credits corresponding with the number of hours recorded with Hours Type 1006.

For Career Service employees, the special compensatory leave accrued for work while a facility is closed under Hours Type 1006 will be added to the employee's special compensatory leave balance under Hours Type 0094. For SES employees, the special compensatory leave earned will be available to the employee under Hours Type 0055.

Note: When an emergency causes the extended closure of a facility, agencies may consider temporarily changing the duty station of impacted employees who are assigned to the closed facility to another location that is open in accordance with applicable Collective Bargaining Agreements and/or the agency's Continuity of Operations Plan (COOP).

Timesheet Example One: A facility is closed at 2:00 p.m. on a Tuesday afternoon due to an air conditioning problem. A **Career Service included** employee with the regular work schedule noted in the timesheet below is required to continue working until 6:30 p.m. on Tuesday. As of 2:00 p.m. the employee has already worked five hours. The recording of the essential work performed on Tuesday afternoon is noted.

Week One	FRI	SAT	SUN	MON	TUE	WED	THUR	Week One Totals
Hours Type 1000	8			8	5	8	8	37
Hours Type 1006					4.50			4.50
Totals	8			8	9.50	8	8	41.50
Regular work schedule	8			8	8	8	8	40

Based on the 4.50 hours worked under Hours Type 1006, the employee will accrue 4.5 hours of special compensatory leave. Since she actually worked over 40 hours in the workweek, she will also be paid for 1.50 hours of overtime.

Timesheet Example Two: Due to a hurricane emergency, a **biweekly Career Service excluded** employee's assigned facility was closed on Thursday of Week One and Friday of Week Two. When the facility was ordered to be closed, the employee was working on a special assignment in another county and was advised to continue working on that assignment during the facility closure period. The employee worked 10 hours on Thursday of Week One and 12 hours on Friday of Week Two. He traveled back to his headquarters on Saturday of Week Two. The recording of the essential work performed on the dates his facility was closed are noted below.

Week One	FRI	SAT	SUN	MON	TUE	WED	THUR	Week One Totals
Hours Type 1000	8			6	8	8	0	30
Hours Type 1006							10	10
Hours Type 0051				2				
Totals	8			8-6	8	8	10	40
Regular work schedule	8			8	8	8	8	40
Week Two	FRI	SAT	SUN	MON	TUE	WED	THUR	Biweekly Totals
Hours Type 1000	0	5		8	10	9	8	70
Hours Type 1006	12							22
Hours Type 0051								0
Totals	12	5		8	10	9	8	92
Regular work schedule	8			8	8	8	8	80

Since the employee was required to continue working while his regularly assigned facility was closed, he was eligible to accrue special compensatory leave credits for each hour he worked on Thursday of Week One and Friday of Week Two (recorded as Hours Type 1006 and totaling 22 hours). The hours he spends traveling back to his headquarters on Saturday of Week Two are coded as regular hours worked (Hours Type 1000) because the facility is no longer closed for the emergency (the facility is normally not open on Saturday or Sunday). The annual leave the employee took on Monday of Week One was offset by the extra hours worked above the contracted 80 hours for the pay period. Since the employee actually worked 92 hours in the biweekly pay period, he will also accrue 12 hours ($92 - 80 = 12$) of regular compensatory leave.

Question 2:

Is an agency permitted to require essential employees who do not report for work when their assigned facility is closed to use their personal leave or to be placed on Leave Without Pay for the time missed from work instead of being permitted to use facility closure administrative leave (Hours Type 0045)?

Answer:

Due to specific staffing needs, the failure of essential employees to report for work during an emergency may negatively impact the agency's ability to accomplish required functions. Therefore, appropriate agency management may evaluate situations where essential employees do not report for assigned duty and initiate actions that may include compelling or granting the use of personal leave, leave without pay, facility closure administrative leave, disciplinary action, or another agency action. Examples of factors an agency may consider when reviewing instances where essential employees do not report for work as scheduled include the specific justification for the absence, whether the employee contacted his/her supervisor in advance of the absence, the employee's responsiveness to previous emergency events, and the nature of the employee's essential duties.

Question 3:

When employees are attending a meeting or a conference in another location including in another state when their assigned work location closes due to an emergency situation, how is the time worked by the employees recorded?

Answer:

Pursuant to Rule 60L-34.0071(3)(e)1.a., F.A.C., employees below the level of bureau chief or bureau chief comparable who are required to work to provide essential services during the period that their assigned facility is closed shall be granted special compensatory leave credits for the hours worked. Since the employees who are assigned to attend a meeting or a conference continue working during the period their assigned facility is closed, the time worked is recorded as Hours Type 1006, and the employees receive special compensatory leave for their hours worked during the period of the facility closure.

Exception: When employees are assigned to work in another area of the state, or in a different state or in another country as part of an intergovernmental interchange agreement as provided in section 112.24, F.S., their work is primarily controlled by the receiving entity under the interchange agreement. As a result and when the location defined by the interagency agreement is not impacted by the emergency, the hours worked by employees while their regularly assigned facility is closed due to an emergency are not deemed to be essential services pursuant to Rule 60L-34.0071(3)(e)1.a., F.A.C.

Note: Employees whose work facility is not closed and who are assigned to work in a county where facilities are closed due to the emergency must record their hours worked as Hours Type 1000.

Question 4:

An employee who is assigned to a facility that closes due to an emergency is not deemed to be essential and is released from duty. However, the employee performs three hours of work and records it on his timesheet using Hours Type 1006. Is this the appropriate way to record the time he worked?

Answer:

No. Employees who are released from duty during a facility closure are expected to follow that

directive. However, if an employee who is not directed to perform essential services chooses to perform work (not directed by his/her supervisor) while the facility is closed, the hours may only be recorded under Hours Type 1000.

Question 5:

If an employee who is approved for telework performs work at the authorized telework location during the period when the employee's assigned headquarters facility closes due to an emergency, does the employee record all hours worked while the facility is closed under Hours Type 1000 or 1006?

Answer:

Telework may be used as a tool for supporting an agency's Continuity of Operations Plan (COOP). To facilitate agency operations, a teleworking employee who is directed to continue performing essential work by agency management while the employee's headquarters location is closed due to an emergency condition should record time worked under Hours Type 1006.

If a teleworking employee's assigned headquarters facility is not closed, the employee must record any hours worked as Hours Type 1000, regardless of any localized issues (e.g., power outages, internet down, natural disasters, etc.) that may be impacting the alternative work location. The telework agreement should stipulate expectations for the teleworking employee when localized issues prohibit working at the alternative work location (e.g., return to headquarters, take annual leave, offset the time, etc.)

Question 6:

If a holiday occurs during a work period with a facility closure, is the accrual of special compensatory leave credits by Career Service employees for extra hours worked impacted?

Answer:

Yes. Although the rules pertaining to the earning of special compensatory leave remain the same, the recording of administrative leave for a facility closure (Hours Type 0045) may reduce the number of hours that the employee would normally have worked in the pay period, and this may reduce the special compensatory credits associated with the holiday.

Note: Regardless of the total number of hours worked in the work period, the hours worked performing essential services by an employee during a facility closure (Hours Type 1006) automatically result in the accrual of special compensatory leave on an hour-for-hour basis for the employee.

Question 7:

What are the retention and usage requirements associated with the special compensatory leave that is accrued using Hours Type 1006 for essential services performed while a facility is closed?

Answer:

The following provides a summary of the Collective Bargaining Agreement provisions.

Career Service employees who are members of AFSCME and the Fire Services bargaining units:

- The special compensatory leave earned on or after November 1, 2019 in Hours Type 0094 for essential services performed during a facility closure that is not used within 120 calendar days from the end of the work period in which the leave is credited must be paid at the employee's current regular hourly rate of pay.
- The use of special compensatory leave in Hours Type 0094 earned on or after November 1, 2019 cannot be extended by 180 days before being paid.

Career Service employees who are members of the PBA Law Enforcement and Florida Highway Patrol bargaining units:

- The special compensatory leave earned on or after November 1, 2019 in Hours Type 0094 for essential services performed during a facility closure that is not used within 120 calendar days from the end of the work period in which the leave is credited must be paid at the employee's current regular hourly rate of pay.

Career Service employees who are members of the PBA Special Agent bargaining unit:

- Accrued special compensatory leave earned for work performed during a facility closure does not expire and any unused leave remains as a payable to the employee.
- As a result, the agency will need to move the unused balance from Hours Type 0094 to Hours Type 0055 in People First. It is recommended that the agency move the unused balance if the employee does not use the special compensatory leave within 60 calendar days after being accrued.

Career Service employees who are members of the Security Services and the FNA bargaining units:

- The special compensatory leave earned for essential services performed during a facility closure that is not used within 120 calendar days from the end of the work period in which the leave is credited must be paid at the employee's current regular hourly rate of pay.

Career Service employees who are not in a collective bargaining unit:

- The special compensatory leave earned will need to be moved from Hours Type 0094 to Hours Type 0055 if it is not used. The unused special compensatory leave is payable at the time the employee separates from the Career Service or the agency.

SES employees below the level of bureau chief or bureau chief comparable:

- The special compensatory leave associated with essential work during a facility closure will accrue as Hours Type 0055, and if it is not used, the leave is payable at the time the employee separates from the SES or the agency.

For specific information regarding the accrual and administration of special compensatory leave for employees in job classifications covered by a Collective Bargaining Unit, refer to the appropriate Collective Bargaining Agreement.

Question 8:

When a Career Service employee (except for members of the Special Agent collective bargaining unit) accrues special compensatory leave credits due to work performed while an assigned facility is closed in accordance with Rule 60L-34.0071(3)(e), F.A.C., does the People First system compel the employee to use this facility closure special compensatory leave prior to using annual leave or regular compensatory leave?

Answer:

Yes. The same system requirements for the compelled use of special compensatory leave prior to annual leave and regular compensatory leave when the special compensatory leave is earned during a holiday work period also apply to special compensatory leave earned for work performed during a facility closure.

The hierarchy for using special compensatory leave before using annual leave or regular compensatory leave is as follows:

- Special Comp – Holiday Carry-Over (Hours Type 0096)
- Special Comp – Holiday (Hours Types 0091)
- Special Comp – Closures (Hours Type 0094)
- Special Comp – Pre 7/2012 (Hours Type 0055)

Note: For the Law Enforcement and Florida Highway Patrol collective bargaining units, special compensatory leave balances in Hours Type 0055 are protected from substitution and compelled use in accordance with the collective bargaining agreements for these two units. As a result, Hours Type 0055 is not included in the People First hierarchy for these units.

Question 9:

If a facility is specifically closed on a Friday, are employees who are required to work on days the facility is normally closed, (e.g., Saturday, Sunday, or a holiday) eligible to record Hours Type 1006 on their timesheets for work performed on those days?

Answer:

No. Since the direction to close the facilities for the emergency only identified one regular workday (Friday), the agency would have to specifically close the facility where the employee works for the Saturday, Sunday, and/or the holiday in order for the employee to claim Hours Type 1006 on his/her timesheet. Facilities that do not normally conduct business on weekends and holidays are not closed unless specific direction is given to close the facility on the weekend or the holiday. If the facility is not specifically closed by the agency, the employees who are directed to work on Saturday, Sunday, and/or the holiday would record their time worked under Hours Type 1000.

The additional hours worked over the weekend and the holiday may result in all or a portion of the administrative leave arising from the facility closure on Friday to be offset as these hours would not be needed to bring the employees to their contracted hours.

Question 10:

What general guidance can be provided regarding the administration of extraordinary pay following the activation of an agency's SES Extraordinary Payment Plan and/or the Career Service Regular Compensatory Leave Payment Plan?

Answer:

SES Extraordinary Payment Plans

In accordance with Rule 60L-32.0071, F.A.C., agencies having a DMS-HRM approved SES Extraordinary Payment Plan may activate their plans using a specific beginning and ending date in order to pay SES employees below the level of bureau chief and bureau chief comparable for extra hours worked in connection with the emergency that exceed the hours in the approved work period and exceed the number of hours in the employee's regular workday schedule. Notification of the plan activation must be provided in writing (copies of the activation or extension letter and any supporting documents) to the Executive Office of the Governor, the President of the Senate, the Speaker of the House, and to DMS-HRM.

After logging hours worked during the entire pay period and if the employee has worked hours in excess of the contract hours in the work period (i.e., biweekly, monthly, or approved extended period), the employee may change recorded hours worked (Hours Type 1000) during the plan activation that exceed the number of hours in the employee's normal work schedule for a given day to Hours Type 1017 (WORK-SES EXTRAORDINARY PAY). Once submitted and approved by the immediate supervisor and by an agency employee with an A, H, or X People First role code, the extraordinary hours will be paid at the employee's straight time regular hourly rate of pay on an hour-for-hour basis.

Note: When a state holiday occurs while an agency's SES Extraordinary Payment Plan is activated, employees must still work and record the total contract hours in the work period (Hours Type 1000) before moving any extraordinary hours worked on the emergency to Hours Type 1017, despite not being eligible to accrue special compensatory leave for state holidays.

Note: The People First system will not allow any extraordinary hours (Hours Type 1016 or 1017) to be saved and submitted until the employee's regularly scheduled workday hours for each day and the contracted hours for the pay period have been met.

Regular Compensatory Leave Payment Plans

In accordance with Rule 60L-34.0043(5), F.A.C., agencies having a DMS approved Regular Compensatory Leave Payment Plan may activate their plans for a specific beginning and ending date in order to pay excluded Career Service employees for regular compensatory leave credits earned in connection with the emergency. Under the plan, employees are paid for those hours that exceed the hours in the approved work period and exceed the number of hours in the employee's regular workday schedule (in lieu of earning regular compensatory leave).

After logging hours worked during the entire pay period and if the employee has worked hours in excess of the contract hours in the work period (i.e., biweekly, monthly, or an approved extended period), the employee may change recorded hours worked (Hours Type 1000) during the plan activation that exceed the number of hours in the employee's normal work schedule for a given day to Hours Type 1016 (WORK-CS EXTRAORDINARY PAY). Once submitted and approved by the immediate supervisor and by an agency employee with an A, H, or X People First role code, the extraordinary hours will be paid at the employee's straight time regular hourly rate of pay on an hour-for-hour basis. Hours worked beyond the work period total that

are not associated with the emergency and remain in Hours Type 1000 will result in the employee accruing regular compensatory leave credits.

Note: An employee cannot earn extraordinary pay in a work period where personal leave or administrative leave of any kind is recorded. Administrative leave, annual leave, sick leave, and compensatory leave do not count as hours worked for overtime or extraordinary pay purposes. Pursuant to Rule 60L-34.004(3), F.A.C., the amount of leave granted is limited to the amount necessary to bring the employee to full pay for the given work period. Any recorded leave must be offset with hours worked before an employee can begin logging extraordinary hours (Hours Types 1016 and 1017).

Timesheet Example Three: In response to a hurricane's impact on Florida, an agency activated its Career Service Regular Compensatory Leave Payment Plan beginning on Friday of Week Two and ending on Wednesday of Week Two (shaded area). A **biweekly Career Service excluded** employee worked additional hours associated with the storm recovery efforts and submitted the **draft timesheet** (noted below).

Week One	FRI	SAT	SUN	MON	TUE	WED	THUR	Week One Totals
Hours Type 1000 (regular work)	8	7	0	8	0	8	8	39
Personal Leave Used					8			8
Hurricane duties – Hours Type 1016								
Totals	8	7	0	8	8	8	8	47
Regular Work Schedule	8			8	8	8	8	40
Week Two	FRI	SAT	SUN	MON	TUE	WED	THUR	Biweekly Totals
Hours Type 1000 (regular work)	8	0	0	8	6	2	9	72
Personal Leave used								8
Hurricane duties – Hours Type 1016	2	7	2	0	4	5	1	21
Totals	8	0	0	8	6	2	9	80
Regular Work Schedule	8			8	8	8	8	80

In reviewing the timesheet to determine if any hours are eligible for paid Regular Compensatory Leave, the following steps need to be taken.

Step 1: The number of hours worked must equal or exceed the scheduled work period hours. In this example for a biweekly employee at least 80 hours must be recorded as regular work.

Step 2: The hours actually worked on each scheduled workday in the pay period must equal or exceed the scheduled hours for that workday. In the example, the employee's scheduled workday is 8 hours each Friday through Thursday with weekends off duty.

Step 3: All extraordinary hours must be worked during the period the Career Service Regular Compensatory Leave Payment Plan was activated for the given emergency situation. In

addition, the extraordinary hours worked must be associated with the agency's response to or involvement with the emergency.

Step 4: The usual offset requirements associated with personal leave use and administrative leave use apply.

Note: Extraordinary pay hours (Hours Type 1016 in this example) are not included in the "Totals" on timesheets completed within People First. These hours are not a component of the regular hours worked and are paid at the employee's regular hourly rate of pay upon approval of the timesheet by the supervisor and approval of the extraordinary hours by an agency employee with an A, H, or X role code in People First.

After applying the four review steps, the **corrected timesheet** is noted below.

Week One	FRI	SAT	SUN	MON	TUE	WED	THUR	Week One Totals
Hours Type 1000 (regular work)	8	7	0	8	0	8	8	39
Personal Leave Used					8 0 offset			8 0
Hurricane duties – Hours Type 1016								
Totals	8	7	0	8	8 0	8	8	39
Regular Work Schedule	8			8	8	8	8	40
Week Two	FRI	SAT	SUN	MON	TUE	WED	THUR	Biweekly Totals
Hours Type 1000 (regular work)	8	0	0	8	6 8	2 7	9 10	72 80
Personal Leave used								8 0
Hurricane duties – Hours Type 1016	2	7	2		4 2	5 0	4 0	24 13
Totals	8	0	0	8	6 8	2 7	9 10	80
Regular Work Schedule	8			8	8	8	8	80

The 8 hours of personal leave recorded on Tuesday of Week One is offset as the employee performed 80 hours of regular work (Hours Type 1000) in the biweekly pay period. The employee would be paid for 13 hours of Hours Type 1016.

Since an employee must work the regularly scheduled workday hours before becoming eligible for any extraordinary pay for that workday, the hours recorded under Hours Type 1000 and 1016 on Tuesday and Wednesday of Week Two had to be adjusted. The first eight hours worked on Tuesday had to be recorded as Hours Type 1000 to coincide with the regular workday schedule. The other two hours worked on Tuesday would remain as Hours Type 1016. All seven hours worked on Wednesday had to be recorded as Hours Type 1000. The employee is not eligible for the one hour of extraordinary pay recorded on Thursday of Week Two because this day is outside of the period for which the Regular Compensatory Leave Payment Plan was activated.

Question 11:

When determining eligibility for extraordinary pay involving Career Service excluded employees and SES excluded employees below the level of bureau chief, what Hours Types are counted toward meeting the employee's scheduled hours for workdays and for the work period?

Answer:

Hours Types 1000 (WORK-REGULAR), 1004 (WORK-CALL BACK#1), 1006 (WORK-ESS SVC/OFC CLOSURES), 1014 (WORK-CALL BACK#2), 1024 (WORK-CALL BACK#3), 1034 (WORK-CALL BACK#4), and 1044 (WORK-CALL BACK#5) are counted to determine the number of hours worked by an employee for each workday and for the work period.

Note: The above noted Hours Types are also used in determining hours worked by employees in positions that are included for overtime purposes.

Question 12:

If a facility is closed for a portion of the period that an extraordinary pay plan has also been activated, can an employee earn special compensatory leave (e.g. Hours Type 1006) and extraordinary pay (e.g. Hours Type 1016 or 1017) for essential services performed while the facility is closed?

Answer:

No. Pursuant to Rule 60L-34.0071(3)(e)1.a., F.A.C., employees who are assigned to a facility the agency has closed, and are required to report for duty to provide essential services, shall be granted special compensatory credits for the hours worked during the period the facility is closed if they hold a position below the level of bureau chief or bureau chief comparable.

Extraordinary pay plans are intended to compensate employees for additional hours worked when no other forms of compensation are available. Since employees who perform essential services during a facility closure accrue special compensatory leave for the hours worked, they are not eligible to record or receive extraordinary pay for this same period even though the agency's Career Service Regular Compensatory Leave Payment Plan or the agency's SES Extraordinary Payment Plan have been activated.

Note: In order to avoid the overlap of an extraordinary pay plan with a facility closure, an agency may want to consider delaying the activation of its extraordinary pay plan until a closed facility reopens, when possible.

Timesheet Example Four: Using the corrected timesheet from Timesheet Example Three, the timesheet below reflects the adjustments needed if the agency had made the decision to close the employee's assigned facility for the entire day on Friday of Week Two and the employee was required to work, while non-essential employees were released from duty.

Week One	FRI	SAT	SUN	MON	TUE	WED	THUR	Week One Totals
Hours Type 1000 (regular work)	8	7	0	8	0	8	8	39
Personal Leave Used								
Facility Closures – Hours Type 1006								
Hurricane duties – Hours Type 1016								
Totals	8	7	0	8	0	8	8	39
Regular Work Schedule	8			8	8	8	8	
Week Two	FRI	SAT	SUN	MON	TUE	WED	THUR	Biweekly Totals
Hours Type 1000 (regular work)	8 0	0	0	8	8	7	10	80 72
Personal Leave used								
Facility Closures – Hours Type 1006	10							10
Hurricane duties – Hours Type 1016	2 0	7	2	0	2	0	0	43 11
Totals	8 10	0	0	8	8	7	10	80 82
Regular Work Schedule	8			8	8	8	8	80

The employee will accrue 10 hours of special compensatory leave for the essential services performed on Friday of Week Two while the assigned facility was closed (recorded under Hours Type 1006).

Since the regular time worked by the employee (including Hours Type 1000 and Hours Type 1006) is now 82 hours ($72 + 10 = 82$), the employee will accrue two hours of regular compensatory leave for this pay period ($82 - 80 = 2$).

Timesheet Example Five: A **biweekly excluded SES** employee below the level of bureau chief recorded and submitted the following timesheet in People First. The agency activated its SES Extraordinary Payment Plan on Tuesday of Week Two (shaded area) and it continued through the end of the pay period. The employee's assigned facility was not closed during this period.

Week One	FRI	SAT	SUN	MON	TUE	WED	THUR	Week One Total
Hours Type 1000	10	9		10	11	9	10	59
Totals	10	9		10	11	9	10	59
Regular work schedule	8			8	8	8	8	40
Week Two	FRI	SAT	SUN	MON	TUE	WED	THUR	Biweekly Totals
Hours Type 1000	3	10	6	9				87
Hours Type 1017					9	11	12	32
Totals	3	10	6	9	0	0	0	87
Regular work schedule	8			8	8	8	8	80

After applying the four timesheet review steps outlined in Timesheet Example Three, the **corrected timesheet** is noted below.

Week One	FRI	SAT	SUN	MON	TUE	WED	THUR	Week One Total
Hours Type 1000	10	9		10	11	9	10	59
Totals	10	9		10	11	9	10	59
Regular work schedule	8			8	8	8	8	40
Week Two	FRI	SAT	SUN	MON	TUE	WED	THUR	Biweekly Totals
Hours Type 1000	3	10	6	9	8	8	8	87 111
Hours Type 1017					9 1	11 3	12 4	32 8
Totals	3	10	6	9	8 8	8 8	8 8	87 111
Regular work schedule	8			8	8	8	8	80

Although the employee in this example worked beyond the biweekly pay period requirement of 80 hours (Hours Type 1000), he must also work beyond the regular hours on each scheduled workday before being eligible to earn extraordinary pay for that day. The work performed does not become extraordinary until the regularly scheduled workday hours have been met.

APPLICABLE STATUTORY AND RULE CITATIONS:

Rule 60L-32.0071, F.A.C., Selected Exempt Service Extraordinary Payment Plan

Notwithstanding the provisions of subsection 60L-34.0031(3), F.A.C., an agency may propose, for Department approval, an agency-wide plan to compensate excluded Selected Exempt Service (SES) employees below the bureau chief or bureau chief comparable level who are directed to work hours in excess of the contracted hours in the regular work period in response to an unforeseen extraordinary event or occurrence to provide agency mission critical services to the public subject to the following:

- (1) The plan must be activated in writing by the agency head or designee and must document how the unforeseen extraordinary event or occurrence impacts recipients of agency mission critical services to justify plan activation.
- (2) Plan activation shall be contingent upon the availability of adequate budget and funds for the compensation payments and shall include a beginning and ending date.
- (3) The agency head or designee shall notify the Executive Office of the Governor, the President of the Senate, the Speaker of the House and the Department immediately upon each plan activation or extension by providing a copy of the activation or extension letter and any supporting documentation.
- (4) Payment shall be made at the employee's straight time hourly regular rate of pay on an hour-for-hour basis for any hours worked in excess of the contracted hours during the regular work period.
- (5) All hours worked in excess of the contracted hours in the regular work period and compensated as a result of a plan activation for an extraordinary event or occurrence shall be recorded in the State Personnel System Human Resource Information System using the code designated for SES Extraordinary Pay unless otherwise instructed by the Department.
- (6) A record must be maintained of all hours worked and payments made in connection with each plan activation.

Rule 60L-34.004(3), F.A.C., General Requirements for Leave Earning, Approval, and Use

- (3) Regardless of the amount of leave originally approved, including administrative leave, the employee will only be charged with or granted the amount of leave necessary to bring the employee to a forty-hour workweek, the regular hours for an approved extended work period, or regular work period for excluded employees.

Rule 60L-34.0043(5), F.A.C., Regular Compensatory Leave

- (5) An agency may propose for Department approval a fiscally sound agency-wide plan for the payment on an hour-for-hour basis of unused regular compensatory leave credits, subject to the following.

- (a) No cash payments shall be made for any regular compensatory leave credits earned prior to the effective date of the plan.
- (b) Payment shall be made at the employee's straight time regular hourly rate of pay.

(c) Payment shall be made in a lump sum, and may be made annually or at more frequent intervals as determined by the agency.

(d) An employee who becomes ineligible, or is otherwise not covered by the agency's plan, shall at that time be paid for the appropriate balance.

Rule 60L-34.0071(3)(e), F.A.C., Administrative Leave; Closing facilities under emergency conditions

1. When offices are closed pursuant to Executive Order of the Governor:

a. Employees assigned to the facilities the agency has closed shall be released from duty and granted administrative leave for the period the facility is closed, unless and except for those employees the agency determines are necessary for providing essential services. Those employees whom the agency requires to report for duty to provide essential services shall be granted special compensatory leave credits for the hours worked during the period the facility is closed only if they hold a position below that of bureau chief (or bureau chief comparable as defined in Section 20.04(3)(b), F.S.).

Section 112.24, F.S., Intergovernmental interchange of public employees

To encourage economical and effective utilization of public employees in this state, the temporary assignment of employees among agencies of government, both state and local, and including school districts and public institutions of higher education is authorized under terms and conditions set forth in this section. State agencies, municipalities, and political subdivisions are authorized to enter into employee interchange agreements with other state agencies, the Federal Government, another state, a municipality, or a political subdivision including a school district, or with a public institution of higher education. State agencies are also authorized to enter into employee interchange agreements with private institutions of higher education and other nonprofit organizations under the terms and conditions provided in this section. In addition, the Governor or the Governor and Cabinet may enter into employee interchange agreements with a state agency, the Federal Government, another state, a municipality, or a political subdivision including a school district, or with a public institution of higher learning to fill, subject to the requirements of chapter 20, appointive offices which are within the executive branch of government and which are filled by appointment by the Governor or the Governor and Cabinet. Under no circumstances shall employee interchange agreements be utilized for the purpose of assigning individuals to participate in political campaigns. Duties and responsibilities of interchange employees shall be limited to the mission and goals of the agencies of government.

(1) Details of an employee interchange program shall be the subject of an agreement, which may be extended or modified, between a sending party and a receiving party. State agencies shall report such agreements and any extensions or modifications thereto to the Department of Management Services.

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