

## 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.

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 uncheduled 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.

Any paid leave or holidays taken are not considered as “hours worked” in determining F.L.S.A. compensatory times under the preceding paragraphs.

Elected officials and department heads may, within the limits of state and federal law, make adjustments to these schedules. The Commissioners Court encourages that offices remain open during the noon hour to serve the public better; and some employees may have their lunch hours staggered in order that the county can provide this service.

Employees are expected to report punctually for duty at the beginning of each assigned workday and to work the full work period established.

(Legal reference: U.S.F.L.S.A. OF 1938, as amended; Garcia v. S.A.M.T.A., U.S. Supreme Court, 1985; U.S. Equal Pay Act of 1963.)

**6.02 NUMBER OF HOURS WORKED.** The Commissioners Court determines the number of hours worked by an employee for the compensation to be received subject to laws governing pay and working hours and to the provisions of the county's budget.

**6.03 OVERTIME WORKED.** The policy of the county is to allow overtime only in cases of emergencies or approval by the Elected Official or Department Head. Employees may be required in emergencies to provide services in addition to normal hours or on weekends or holidays. Overtime is defined as hours worked in excess of the allowable number of hours under the Fair Labor Standards Act (F.L.S.A.) (40 hours per seven-day workweek for non-law enforcement employees; 171 hours per 28-day work period for non-exempt certified law enforcement officers and non-exempt certified jailers).

For non-exempt employees eligible for overtime pay, other than law enforcement employees, overtime begins to accrue with the 41<sup>st</sup> hour worked during the seven-day workweek. For law enforcement employees, overtime begins to accrue with the 172<sup>nd</sup> hour worked during the 28-day work period.

All overtime services by employees eligible for overtime pay must be authorized in advance by the employee's supervisor and approved by the elected or appointed department head.

(Legal reference: U.S.F.L.S.A. of 1938, as amended.)

**6.04 EXEMPTIONS FROM F.L.S.A. (OVERTIME COMPENSATION).** Certain department heads and other employees are exempt from overtime provisions of the Fair Labor Standards Act (F.L.S.A.) and are expected to render necessary and reasonable overtime services with no additional compensation. The salaries of these positions are established with this assumption in 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 exempt employees, when properly recorded, may be used as a factor in granting or denying paid leave. All compensatory leave must be exhausted prior to utilizing the extra

hours. Extra hours worked cannot exceed a balance of 240.00 hours. This is a benefit provided by the County, it is not required by the Department of Labor therefore it is not compensated upon termination. 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 may be exempt from or covered by (nonexempt) the overtime provisions of F.L.SA depending on the level of wage assigned.

**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 affect 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 if:

(1) Adequate funds are available in the department's budget, the Commissioners Court has granted authority to pay overtime by a separate court order, and an emergency situation exists or Special Circumstances are approved;

(2) Adequate funds are available in the department's budget, and the majority of the employee's essential duties include construction projects that cannot be completed in inclement weather or wet ground conditions; or

(3) 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 department's 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.

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

**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. However, to assist the employee in utilizing time accrued in the month of December, the time will be extended for 45 days and forfeited if unused by February 15<sup>th</sup>. Equivalent time is a benefit

provided by Polk County it is not required by the Department of Labor and therefore is not compensated upon separation.

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.

**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, preferably 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 proceeding 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.

Time records must be submitted to the Human Resources office no later than 12:00 noon on the Monday preceding a payday. If a holiday fall within a payday week, the County Treasurer, as payroll office, may require the early submittal of employee time records to allow for adequate processing and will notify all County departments of the adjusted submittal deadline. Failure of an individual or department to submit the time records or other required payroll documentation by the designated deadline could result in delayed payment to the individual or to all employees of the department.

**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 official's 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.

Polk County will provide paid leave for essential and non essential employees in the event of certain emergencies including, but not limited to: hurricanes, tornados, floods and other Acts of God; nuclear, chemical and biological emergencies, terrorist attack or any other emergency declared by the County. Nothing in this policy shall be construed as changing the "at will" or exempt/nonexempt status of any person employed by Polk County as the case may be. Polk County Commissioners' Court has adopted the following emergency closing procedures:

If in the opinion of the County Judge, based on concern over safety of County employees and other citizens, as well as interest in the availability of governmental services, he/she shall determine whether to close county buildings in whole or in part. Once a decision has been made to close a County building, the County Judge shall make every attempt to notify local media to inform citizens of such closure. Affected County Department Heads/Elected Officials will also be notified of the closure.

Each Elected Official/Department Head should determine and implement whatever actions would be necessary to protect employees, customers, visitors, equipment, vital records and

other assets during the event and during restoration of operations. Each Elected Official/Department Head should maintain current contact information on their employees.

The County's operating status will be communicated to as many local television and radio stations as possible. Polk County will issue a telephone number that will provide general information on operating status along with our website: [www.co.polk.tx.us](http://www.co.polk.tx.us).

**Compensation during Emergency Closings.** In the event that an emergency closing is ordered by the County Judge, regular (full time and part time) employees effected by such emergency will be paid their regular wages as the day(s) will be recorded as an official closed day(s). This time off is not considered time worked and will not be used to determine eligibility for overtime. Any employee who is off or scheduled to be off on sick leave, FMLA or disciplinary leave without pay during a period of emergency closure shall have their leave recorded as such. Any essential employee who is off on paid leave may be required to return to work immediately. In situations not involving an "emergency evacuation order," as defined by Chapter 22, Texas Labor Code, any essential employee who fails to report to work as directed during inclement weather or disaster may be subject to disciplinary action, up to and including termination.

Any employee who fails to report to work as directed during an "emergency evacuation order" as defined by Chapter 22, Texas Labor Code, may be subject to disciplinary action, up to and including termination, if such employee is necessary to provide for the safety and well being of the general public or is otherwise necessary for the restoration of vital services.

Whenever there is an official emergency closure of all County operations, all essential employees (exempt or non-exempt) required to remain at work will be compensated as defined by Section 6.05, Special Circumstances. The maximum number of work hours which may be recorded for any work day is limited to 24 hours per day during the first 72 hours of the emergency closure and 18 hours per day thereafter.

All essential employees must be designated by the Elected Official/Department Head and made aware of their assignments prior to an emergency. A list of essential employees should be provided to the Emergency Management Coordinator and to Human Resources. Essential employees are those who are required to stay at their assigned areas performing necessary tasks during the emergency, or those who may be asked to return to work after an immediate threat is over. The list for each department should be updated annually. Such personnel may include Corrections Officers, Deputy Sheriffs, Road & Bridge crews, Emergency Management personnel, Human Resources personnel, Maintenance personnel, personnel designated by the County Judge, County Commissioners, Sheriff, or other Elected Officials/Department Heads, and other employees not listed above could be considered essential personnel depending upon emergency circumstances. All other employees should report to their Elected Official/Department Head as soon as possible, via instructions from their Elected Officials/Department Heads.

There may be instances when only certain buildings/offices are officially closed. In these instances the effected employees will be compensated in accordance with this policy (see paragraph "Compensation during Emergency Closings") and all non-effected employees' compensation will be the same as during regular working conditions.

If conditions are such that County offices are safe and normal operations are proceeding, *but travel may be extremely difficult*, the County may announce to non-essential staff to use their own discretion to decide whether or not to report to work. Any days/hours not worked will be charged to vacation, holiday, personal leave, compensatory leave, or leave without pay (while on leave without pay adjustments of vacation accrual date will apply per policy). An employee requesting to take the day off must notify his/her supervisor immediately. The supervisor will make the final determination as to the requested time off.

Use of accrued sick leave may be an option during emergencies concerning public health such as pandemics, or related events pending approval from Commissioners Court, when an employee is unable to attend work while *awaiting* test results due to illness of the employee or awaiting results for the employee's immediate family member as defined in Section 8.05. Proper documentation from a treating physician will be required. A maximum number of days while awaiting results will be determined by the information received from the Emergency Management Coordinator (who will make the determination consistent with recommendations from the Department of Health or other official agency).

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 leave, Holiday leave, Personal leave, or Vacation leave for the period not worked. Employees who are not entitled to any of the stated leave will not be compensated for hours not actually worked.

**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.