

CHAPTER 23

HOURS OF WORK AND TOURS OF DUTY

Refer to the collective bargaining agreement (CBA) with AFGE Local 1770 for additional provisions pertaining to bargaining unit employees.

23-1. GENERAL.

a. This chapter is not applicable to firefighters and other categories of employees covered by separate policies.

23-2. DEFINITIONS.

a. Tour of Duty - period of calendar days during which an employee is scheduled to perform duty.

b. Basic Workweek - a period of 5 consecutive 8-hour calendar days, normally Monday through Friday, within the administrative workweek during which an employee is paid his/her straight-time rate.

c. Shift - an 8-hour work period scheduled in advance which occurs on a day in the basic workweek of an employee and for which the employee is paid at the straight-time rate.

d. Day - an 8-hour work period of work scheduled over not more than 9 hours in a day. A "day" is defined as a 24-hour period beginning at midnight and ending at midnight.

e. Administrative Workweek (AW) - seven consecutive calendar days, commencing at 12:01 a.m. on Sunday and ending at 12:00 midnight the following Saturday. Hours of work established in various geographical areas of this installation will normally be effective year round without regard to seasonal changes. Any change(s) will occur only after appropriate notification and/or discussion with the Union.

f. Standard Workday - eight hours of work scheduled over a 9-hour period with 1 hour lunch, except in those organizations which have 8 hours of work scheduled over a period sufficient to permit a 30 or 45 minute lunch period. The lunch period is considered non-duty time. In cases where a majority of the employees in a particular work section desire less than one hour lunch period, a shorter lunch period of not less than 30 minutes may be established upon approval by the supervisor. Once a shortened lunch period is established, the hour of departure will be adjusted accordingly.

g. The supervisor reserves the right to return to the 1-hour lunch period and subsequent adjustment of the hour of departure in the event the shortened lunch period and resulting adjusted hour of departure adversely impacts on the Supervisor's ability to perform its' mission. The Supervisor will notify the Union in advance of these actions and the parties will meet and confer, as appropriate.

23-3. ESTABLISHMENT OF WORK SCHEDULES.

a. Employees will be assigned to tours of duty consistent with the following provisions, except in those cases when it is determined that it would seriously handicap the activity in carrying out its function or result in substantially increased costs:

(1) Assignments to tours of duty will be scheduled in advance of the administrative workweek over periods of not less than one week.

(2) The basic workweek is scheduled on 5 days, normally Monday through Friday, and the 2 days outside the basic workweek are consecutive. Employees occupying positions, which require a basic workweek of other than Monday through Friday, may be allowed to rotate to a Monday through Friday workweek on an attrition basis. Employees may also be assigned to less desirable tour of duty on a continuing basis when such assignments are acceptable to the supervisor. The employee will submit request for a change in basic workweek/tour of duty in writing to the supervisor.

(3) The working hours in each day in the basic workweek are the same.

(4) The basic non-overtime workday may not exceed 8 hours unless an Alternate Work Schedule (AWS) has been approved.

(5) The occurrence of holidays may not affect the designation of the basic workweek.

(6) Breaks in working hours of more than 1 hour may not be scheduled in a basic workday.

b. Irregular tours of duty (such as one that does not provide for 2 consecutive days off) may be established in accordance with government-wide regulations. Contact with the Labor Management office is essential before establishing an irregular tour of duty.

c. Except in positions, which require staggered reporting times, the standard workday will be as follows:

(1) First Shift: To begin not earlier than 6:00 a.m. or later than 9:30 a.m.

(2) Second and third Shift: Working hours will be adjusted to provide for not more than eight (8) hours of duty within a nine (9) hour period.

23-4. CHANGING WORKDAYS AND WORK HOURS.

a. When a supervisor knows in advance of the administrative workweek that a requirement exists for an employee's specific days and/or work hours to differ from those in the current administrative workweek, and that failure to change an employee's schedule would seriously handicap the activity's ability to carry out its functions or that costs would be substantially increased, the supervisor may reschedule the employee's regularly scheduled administrative workweek to correspond with the actual work requirements. The employee should be verbally informed of his/her revised schedule and the reasons for the revision as early as is feasible, but must be informed not later than the end of duty hours on Friday preceding the beginning of the administrative workweek -(Example: Mr. Smith's specific days and work hours are Monday through Friday, 0730-1630. Supervisor Jones knows on Wednesday that Smith's actual work requirements the following week include all day on Saturday. Jones notifies Smith on Wednesday that his/her revised schedule for the administrative workweek, which begins at 0001 on Sunday, will be Tuesday through Saturday from 0730-1630).

b. The supervisor or timekeeper will record the change of schedule on the employee's Time and Attendance card at the time the employee is informed of the change.

c. Employees whose personal plans would be disrupted by the schedule change may request reconsideration, in writing. Such requests must be received by the management official who decided the schedule change on a timely basis to allow him to consider the request and furnish the requester an answer by the close of business on the Friday preceding the administrative workweek. If there is another employee whose job description includes the required duties, and the employee is qualified and willing to perform the duties, the management official may favorably consider the change. Regardless of the decision, the requester will receive a written reply on a timely basis, if he/she asks for one.

d. Routine changes of tours of duty require a minimum of 7 days advance notice to the affected employee(s).

e. Prior to applying the "seriously handicapped" or "substantially increased cost" criteria mentioned above, supervisors should consult the Labor Management Office.

23-5. PRESHIFT/POSTSHIFT ACTIVITIES.

A pre-shift activity is a preparatory activity that an employee performs prior to commencing his/her principal activities (i.e., the duties employed to perform) and a post-shift activity is a concluding activity that an employee performs after the completion of the principal activities. If the supervisor determines that a pre-shift or post-shift activity is closely related to the employee's principal activities and is indispensable to the performance of the principal activities and the time spent in the pre-shift/post-shift activities is more than 10 minutes per daily tour of duty, the supervisor shall credit all the time spent in those activities as hours of work. Daily pre-shift activities of 10 minutes or less and/or post-shift activities of 10 minutes or less are considered "*de minimus*" and are non-compensable.

23-6. ON-CALL DUTY.

a. When the nature of operations is such that it may become necessary at any time to call back employees because of emergencies or administrative requirements that may occur outside the normal work hours of an activity, employees may be designated to be available for such a call during weekends or other off-duty time. Designation of employees for this purpose will be subject to the following conditions:

(1) There should be a definite possibility that the services of the designated employees might be required.

(2) On-call duties required of the employee will be brought to the attention of all employees concerned.

(3) If more than one employee could be used for on-call services, designations should be made on a rotating basis.

(4) Employees who are designated for "on-call" duty may not have their freedom of movement unduly restricted. Normally, the requirement that they hold themselves available will not extend beyond a requirement that they leave word where they may be reached. Electronic paging devices (beepers) may be issued to

employees who voluntarily request them. Any other assignment of electronic paging devices (unless directed to carry a paging device in a standby status) will be coordinated with the Labor Management Office.

b. The designation of employees to be available for on-call duty cannot, in itself, serve as a basis for additional compensation. Employees on approved standby tours (i.e., required to remain at their post of duty with their time and activities completely under the control of the employing activity) will require additional compensation be paid. In the event of the actual call back to duty, employees in an on-call status are entitled to a minimum of 2 hours overtime compensation. If a return to duty from on-call (without paging device) is not required and services are provided by telephone, overtime pay or compensatory time, as appropriate, will be granted unless the time spent performing the service is less than 15 minutes.

23-7. REST AND LUNCH PERIODS.

a. Rest periods.

(1) A 15-minute rest period may be granted for each 4 hours of continuous duty. Insofar as possible, rest periods will be at the midpoint of the 4-hour duty period. Rest periods cannot be added to the lunch period or at the beginning or the end of the workday (refer to Chapter 32 for additional information).

(2) The granting of a rest period is a privilege and not a right of employees; therefore, supervisors may, at their discretion, suspend a particular rest period in order to meet an emergency work situation. However, before suspending the rest period, the operating official should consider if delaying the rest period will resolve the emergency situation.

(3) Employees are entitled to an 8-hour break between the end of a shift and the beginning of the next shift unless overtime is paid in accordance with regulations.

b. Lunch periods.

(1) Lunch periods during which the employee is entirely free of duty may not be considered duty time and must be scheduled outside the hours established for the daily tours of duty. Where three 8-hour shifts are in operation; however, and an overlapping of shifts to permit time off for lunch is not

possible, a lunch period of 20 minutes or less may be counted as time worked for which compensation is allowed. Where the on-the-job lunch period is in effect, employees must spend the time close to their workstations and may be required to perform work. Where the lunch period is free time, or is longer than 20 minutes, the entire period may not be included in the daily schedule of working hours so that the employees are paid for the lunch period. Employees cannot forego a lunch period for the purpose of shortening the workday.

(2) Staggered lunch periods may be necessary to provide coverage of an activity during the lunch period. Supervisors should use a combination of factors such as employee preferences, individual skills and qualifications, and service within the work unit to determine lunch period assignments.

(3) Employees in these sections which require staggered reporting times or staggered lunch periods to compensate for peak work load, to extend hours of operations, or to provide coverage during the normal lunch period, will be placed in a tour of duty assignment which will provide working hours dictated by mission requirements and consistent with governing regulations and the provisions of the Contract Agreement between headquarters XVIII Airborne Corp & Fort Bragg, North Carolina and American Federation of Government Employees.

23-8. FEDERAL HOLIDAYS.

New Year's Day, January 1
Martin Luther King's Birthday, the third Monday in January
George Washington's Birthday, the third Monday in February
Memorial Day, the last Monday in May
Independence Day, July 4
Labor Day, the first Monday in September
Columbus Day, the second Monday in October
Veteran's Day, November 11
Thanksgiving Day, the fourth Thursday in November
Christmas Day, December 25

23-9. DETERMINING DAYS ON WHICH HOLIDAY BENEFITS ACCRUE.

a. In general, holidays falling on non-workdays, with the exception of holidays falling on Sunday or other day designated as "in lieu of Sunday" (the first non-workday of the administrative workweek) are observed on the workday immediately preceding the holiday. Holidays that fall on Sunday or the day in lieu of Sunday are observed on the workday immediately following the holiday. The table at figure 23-1 in this chapter is useful in determining on which day of the workweek the holiday

is observed when the holiday occurs on one of the two non-workdays in column 1. To use the table, first find the correct combination of non-workdays in column 1 and then find the corresponding day (letter A or B) in column 2. This is the day on which holiday benefits are observed.

b. Holiday work is non-overtime work performed by an employee during a regularly scheduled daily tour of duty on a designated legal holiday. Holiday work is also mutually exclusive of overtime work. A full-time employee who performs work on a holiday as part of his/her basic 40-hour workweek is entitled to holiday pay. An employee who works on a holiday under any other conditions is entitled to overtime pay only, not holiday pay.

c. Employees working on an Alternate Work Schedule should check with their timekeeper or the Human Resource Management office regarding the correct days to be observed as holidays.

d. Holidays for Firefighters.

(1) Federal firefighters are generally entitled to a special form of compensation that bars them from receiving holiday premium pay. Under current law, any firefighter with a regular tour of duty that averages 53 hours or more per week is compensated under special basic pay and overtime pay rules. By law, these firefighters are not entitled to any other form of premium pay, including holiday premium pay. The current law became effective in October 1998.

(2) Certain firefighters have a regular 40-hour tour of duty and do not receive any type of special compensation. These firefighters would be entitled to holiday premium pay on the same basis as regular employees.

(3) Federal firefighters paid under special firefighter pay provisions are not entitled to be excused from duty on a holiday and paid for holiday hours during which no work is performed. They can be required to work on a holiday at their normal pay rate, with no entitlement to holiday premium pay. They are not covered by the normal holiday rules. An individual firefighter may be permitted to take annual or sick leave on a holiday. In rare circumstances in which an agency determines that firefighters' services are not required on a particular holiday, the agency may at its discretion grant these firefighters excused absence with pay, without charge to leave.

(4) Firefighters' pay under the special firefighter pay provisions is considered to be complete compensation for all hours of work, taking into account the fact that firefighters may work at night and on Sundays and holidays due to the nature of their work. This same concept applied when firefighters received standby duty premium pay (before October 1998). In both cases, there is a presumption that employees will perform duty on holidays falling within their regularly scheduled tours of duty. (See 56 Comp. Gen. 551.)

23-10. SUNDAY WORK.

Sunday work is non-overtime work performed by an employee during a regularly scheduled daily tour of duty when any part of the tour is on Sunday. Sunday pay is paid if any portion of the tour of duty falls on a Sunday. Sunday work is mutually exclusive of overtime work. A full-time employee who performs Sunday work as part of the basic 40-hour workweek is entitled to Sunday pay. An employee who works on Sunday under any other conditions is entitled to overtime pay only. An employee who is regularly scheduled to work on Sundays and who chooses to take sick or annual leave is entitled to Sunday premium pay for periods of authorized absence.

23-11. NIGHT WORK.

a. Night work includes any work performed by an employee during hours for which night shift differential is authorized as part of his or her regularly scheduled administrative workweek.

b. Night work includes any work regularly scheduled for an employee between the hours of:

(1) 3 P.M. and 8 A.M. for Federal Wage System (WG) employees.

(2) 6 P.M. and 6 A.M. for GS employees.

c. Night work must be scheduled as part of the employee's regularly scheduled administrative workweek to be compensable at night premium rates. If an employee is scheduled by date and time, in advance (prior to the administrative workweek), to perform overtime work, he or she is entitled to overtime pay and night differential. An employee temporarily assigned during the administrative workweek to a daily tour that includes night work is entitled night differential. This is distinguished from a period of irregular or occasional overtime in addition to the employee's regularly scheduled administrative workweek.

23-12. OVERTIME AND COMPENSATORY TIME.

a. Overtime.

(1) All Civil Service positions are coded "exempt" or "nonexempt" from the Fair Labor Standards Act (FLSA). Exempt employees are not covered by FLSA; overtime entitlements for exempt employees are determined under Title 5, United States Code. Nonexempt employees are covered by the FLSA. Supervisors can determine the status of their employees by checking (1) the job description, (2) the employee's Notification of Personnel Action.

(2) Officially ordered or approved work in excess of 40 hours in an administrative workweek or in excess of 8 hours in a day is overtime work and must be paid or compensated for in accordance with law and regulations, unless the employee is working under an approved alternate work schedule.

(3) Regular overtime work is overtime work that is part of an employee's regularly scheduled administrative workweek. Employees who work regularly scheduled overtime or perform overtime which should have been scheduled, as part of the employee's regularly scheduled administrative workweek must be paid. Irregular or occasional overtime work means overtime that is not part of an employee's regularly scheduled administrative workweek. Unlike regularly scheduled overtime where an employee must be paid, employees who work irregular or occasional overtime may be granted compensatory time off in lieu of overtime pay. (See paragraph 23-11 b)

(4) Supervisors have authority to order an employee to work overtime. Employee refusal to do so may result in disciplinary action.

(5) Planned overtime work will be distributed equitably among all employees within the trade or occupations within an organizational element. Employees assigned to work overtime must be qualified as determined by the supervisor to perform the overtime work in an efficient and expeditious manner.

(6) It is recognized that certain factors i.e., leave, continuity on jobs of short duration, peculiar and environment skills requirements, etc., may cause temporary imbalance in the equitable distribution of overtime. However, nothing in the section shall be construed as alleviating the responsibility of the supervisor to distribute overtime fairly and equitably in a 12-month period.

(7) This does not apply to employees assigned to emergency situations requiring immediate actions, however, supervisors will avoid the continuous use of a single employee in emergency situations when other qualified employees are available who can react in sufficient time to aid in resolution of the emergency.

b. Overtime while in a Travel Status.

Determining an employee's overtime entitlement while in a travel status varies depending on whether or not the employee is covered by the overtime provisions of the FLSA. Employees who are not covered by the FLSA (i.e., Exempt employees) have their overtime entitlements determined only under the provisions of 5 USC 5542. The following describes the conditions under which travel time may be considered hours of work for pay purposes:

(1) In accordance with 5 USC, Section 5542 and 5 CFR 550.112, time spent away from the official duty station of an employee is not hours of employment unless:

(a) The time spent is within the days and hours of the regularly scheduled administrative workweek of the employee, including regularly scheduled overtime hours; or

(b) The travel (i) involves the performance of work while traveling, (ii) is incident to travel that involves the performance of work while traveling, (iii) is carried out under arduous conditions, or (iv) results from an event which could not be scheduled or controlled administratively.

(2) IAW Fair Labor Standards Act and 5 CFR Section 5551.422, time spent traveling shall be considered hours of work if:

(a) An employee is required to travel during regular working hours;

(b) An employee is required to drive a vehicle or perform other work while traveling;

(c) An employee is required to travel as a passenger on a one-day assignment away from the official duty stations; or

(d) An employee is required to travel as a passenger on an overnight assignment away from the official duty station during hours on non-workdays that correspond to the employee's regular working hours.

(e) An employee who travels from home before the regular workday begins and returns home at the end of the workday is engaged in normal "home to work" travel; such travel is not hours of work. When an employee travels directly from home to a temporary duty location outside the limits of his or her official duty station, the time the employee would have spent in normal home to work travel shall be deducted from hours of work as specified in paragraphs b and c, above.

(f) An employee who is offered one mode of transportation, and who is permitted to use an alternative mode of transportation, or an employee who travels at a time other than that selected by the agency, shall be credited with the lessor of:

(1) The actual travel time that is hours of work under this section; or

(2) The estimated travel time which would have been considered hours of work under this section had the employee used the mode of transportation offered by the agency, or traveled at the time selected by the agency.

(3) Travel of an employee shall, to the maximum extent possible, be scheduled within the employee's regularly scheduled workweek during regular duty hours in order to minimize overtime obligations.

c. Compensatory Time.

(1) Compensatory time is an approved absence granted in lieu of overtime pay.

(2) All employees who are exempt from the FLSA and whose rate of pay is at or below the rate of pay for GS-10/Step 10 and wage system (WG) employees may elect paid overtime or compensatory time for overtime worked, provided the hours worked are irregular or occasional. Whenever overtime is scheduled in advance of or included as a part of the administrative workweek, the overtime may not be considered irregular or occasional; therefore, overtime payment is required.

(3) All employees who are exempt from the FLSA and whose pay exceeds the rate of pay for GS-10/Step 10 may be directed to take compensatory time in lieu of paid overtime, if the hours worked are irregular or occasional. Maximum use will be made of compensatory time for these employees.

(4) All employees who are covered by the FLSA (nonexempt) will be paid for all overtime worked; however, such

(5) Compensatory time will be earned and used on the basis of 1 hour off duty for each overtime hour worked (or 15-minute increments thereof) and not at time and one-half. Compensatory time off may be granted for overtime work only. It will not be granted for work performed on a holiday or Sunday for which holiday or Sunday premium pay is due.

(6) Supervisors are responsible for establishing a definite time schedule to afford the employee an opportunity to take compensatory time off since under the following conditions, compensatory time will be paid as overtime when:

(a) When it is not used by the end of the 26th pay period after it is earned.

(b) The employee transfers to an activity under a different Unit Identification Code (UIC), i.e., RBC employee transfers to USASOC, etc.

(c) Upon separation from Federal Service.

(7) An employee should use compensatory time before using annual leave except at the end of the leave year when accumulated annual leave exceeds the permissible carryover and could be forfeited.

(8) Compensatory time earned and granted will be controlled and the supervisor will maintain appropriate records. All compensatory time earned and used by an employee will be recorded on the time and attendance report and leave record in accordance with applicable time keeping regulations.

(9) Compensatory Time for Religious Holidays.

(a) When personal religious beliefs require employees to abstain from work during certain periods, they may elect, with supervisory approval, to work compensatory time and receive, in lieu of overtime pay, an equal amount of compensatory time off. Requests may be disapproved, however, if modification in the work schedule would interfere with the efficient accomplishment of the mission. The compensatory time may be worked before or after the period of time off; advanced compensatory time off should be worked off within a reasonable

amount of time. Where an employee can be granted time off but no productive overtime work is available at the time it is initially requested, alternative times should be arranged, where possible, for the performance of the work.

(b) The employee's request for compensatory time off and compensatory work should be by Memorandum to the supervisor who normally approves leave and should read as follows: "I request to work compensatory time and receive, in lieu of overtime pay, an equal amount of compensatory time off during the period (fill in dates and/or time). My religious beliefs require me to abstain from work during this period." The supervisor should approve/disapprove the request, notify the employee and keep a Memorandum for Record for their records. Compensatory hours worked and taken should be annotated on the Time and Attendance Report in the normal manner for recording compensatory time and by annotating the appropriate Defense Civilian Pay System (DCPS) code. Further information on use of compensatory time for religious observance may be obtained by contacting the Labor Management Office, telephone 6-8905/9138.