

On-Call and Emergency Callback Pay Policy

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§ 1. Policy

It is the policy of the State of North Carolina to provide additional compensation to designated FLSA Subject employees who are **required** to serve in on-call status and/or who are called back to work. (For FLSA Not Subject employees, see the paragraph entitled FLSA Not Subject at the end of this policy.)

Management should carefully weigh the costs and benefits of alternatives before authorizing on-call or emergency callback pay. Reasonableness and fairness shall be exercised in administering this policy.

§ 2. Definitions

On-Call: is when an employee must remain available to be called back to work on short notice if the need arises. Time spent by an employee who is required to remain on call on the employer’s premises or so close thereto that the time cannot be used for the employee’s own purposes is considered working time and must be compensated at the

employee's regular rate of pay or overtime rate of pay. However, employees who are merely required to leave work as to where they may be reached are not working while on call in this sense¹. Time spent responding to a call received while on-call is time worked.

Note: Leave time and on-call time cannot overlap. (This does not include holidays.) Example: During a 24-hour period, an employee may be on vacation for 8-hours and be on-call for no more than 16 hours in that day.

Emergency Callback: is when an employee has left the work site and is requested to respond on short notice to an emergency work situation to:

- avoid significant service disruption,
- avoid placing employees or the public in unsafe situations,
- protect and/or provide emergency services to property or equipment,
- respond to emergencies with students, clients, inmates, patients, or residents.

Emergency callback may involve either:

- going back to work, or
- responding via telephone/computer.

§ 3. Designation of Classes/Positions

Based on sound business need, management at the agency shall:

- select job classes and/or individual positions that are subject to on-call and/or emergency callback, and
- submit such lists to the agency human resource director for approval.

The HR Director shall submit a list of the classes eligible for on-call, along with the rates paid, to the Office of State Human Resources (OSHR). When a class is added or when a rate changes, agencies shall submit those changes to OSHR. OSHR shall report any on-call rate changes for eligible classes or individual positions to the Human Resources Commission at the next meeting following the changes.

§ 4. Notification to Employees

Agencies shall notify employees in advance if their position is required to be on-call or subject to emergency callback.”

§ 5. Rate of On-Call Compensation

See Section 14 of the Hours of Work and Overtime Compensation policy for information on when an employee may be eligible for compensation at their regular rate of pay while on-call. In instances when an employee is not eligible for their regular rate of pay, agencies may provide on-call compensation at the rates noted below that may be in the form of pay or compensatory time. OSHR shall determine rates based on survey data of prevailing practices in the applicable labor market and may also consider other factors such as hiring and retention concerns.

On-Call Rate	Occupations
Up to \$5.00 per hour (or 1 hour of compensatory time for every 8-hour shift)	Medical/Health Care Public Safety Information Technology Skilled Trades
Up to \$4.00 per hour (or 1 hour of compensatory time for every 8-hour shift)	Accounting Finance Clerical Office Services Legal and Administrative Management Information and Education Human Services Engineering and Architectural Agricultural and Conservation

§ 6. Use of On-Call Compensatory Time for FLSA Subject

If compensatory time is used in lieu of on call pay, it may be accumulated up to a maximum of 240 hours and shall be taken within 12 months of the date earned. If compensatory time off is not used by the end of the twelve-month period, it shall be paid in the employee's next regular paycheck. The on-call pay shall be at the on-call rate applicable to that position.

§ 7. Overtime Pay for FLSA Subject

If an FLSA Subject employee works overtime while receiving on-call pay, the on-call pay must be included in calculating the employee's regular hourly rate for overtime pay. The time in on-call status is not included for determining overtime hours unless the employee is called back to work.

§ 8. Emergency Callback Compensation

§ 8.1. Emergency Callback – FLSA Subject

- Employees returning to work shall receive a minimum of two hours compensation as time off or additional pay at the straight-time rate of pay for each occasion of callback. OSHR may approve a higher rate of compensation if justified by labor market data or to help address hiring and retention shortages of state agency staff critical to behavioral health and public safety.
- Employees responding via telephone/computer shall receive a minimum of 30 minutes as time off or additional pay at the straight-time rate for each occasion of callback. If more than one callback occurs within a given shift, total callback time cannot exceed two hours unless the work time exceeds two hours.
- If the time on callback is more than the two hours allowed, the employee shall be compensated for the actual time on callback.
- Management shall determine a reasonable time for which preparation and travel to the worksite shall be compensated.
- Shift pay, holiday pay and overtime pay shall be received in addition to emergency callback pay, if applicable. Time on callback is subtracted from the on-call hours.
- Employees whose work continues following the end of the regularly scheduled hours of work are not eligible for the callback.
- Time worked and travel to the work site shall be included in hours worked for determining overtime hours.
- Emergency callback pay must be included in calculating the employee's regular hourly rate for overtime pay.

§ 8.2. Emergency Callback – FLSA Not Subject

FLSA Not Subject employees normally do not receive additional compensation for emergency callback or on-call. However, an agency that utilizes a Compensatory Time Policy for FLSA Not Subject employees may use it to provide time off.

OSHR may approve specific FLSA Not Subject positions, with extenuating hiring and retention shortages, to receive additional compensation for emergency callback or on-call. These employees must be responsible for mission critical behavioral health, juvenile justice, or public safety duties. Typically, these duties

are not able to be performed by FLSA Subject employees, and/or may require critical supervisory consultation on technical matters that cannot be delegated.

For all other positions, if the agency head determines that temporary working or market conditions justify, they may work with OSHR to determine if an FLSA Not Subject position is temporarily eligible for on-call and/or emergency callback pay and the appropriate compensation.

§ 9. Separation or Transfer

For FLSA Subject employees, if on-call or callback time has not been taken off as compensatory leave, it shall be paid to employees upon separation or transfer to another agency. The on-call pay shall be at the on-call rate applicable to that position.

§ 10. Sources of Authority

This policy is issued under the following sources of law:

- N.C.G.S. § 126-4(2)

This policy is compliant with:

- 25 NCAC 01D .0200