

## 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.

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### § 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 word as to where they may be reached are not working while on call in this sense.<sup>1</sup> Time spent responding to a call received while on-call is time worked.

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<sup>1</sup> 29 C.F.R. § 785.17

## On-Call and Emergency Callback Pay Policy (cont.)

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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, or
- 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.

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### § 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. When a class is added or when a rate changes, a completely new list shall be submitted with the additions/changes specified.

Advisory Note: Positions previously designated to receive on-call/emergency callback compensation may be grandfathered and shall continue to be eligible for on-call and/or emergency callback at the same rate of compensation until specifically eliminated by the agency.

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### § 4. Notification to Employees

Employees shall be notified in advance of being subject to on-call and emergency callback.

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## On-Call and Emergency Callback Pay Policy (cont.)

### § 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. The rate of each shall be determined by the Office of State Human Resources based on survey data of prevailing practices in the applicable labor market.

The Office of State Human Resources shall report any on-call rate changes for the occupational groups or any exceptions to the Human Resources Commission.

Advisory Note: The current rate of \$0.94 or other previously approved rates that are in effect will remain in effect or the agency may elect to change the rates based on the following:

On-Call Rate	Occupations
Up to \$3.00 per hour (or 1 hour of compensatory time for every 8-hour shift)	Medical/Health Care Information Technology Skilled Trades
Up to \$2.00 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 Licensing and Inspection – Public Safety Institutional Services Engineering and Architectural Agricultural and Conservation

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

If compensatory time is used, it may be accumulated up to a maximum of 240 hours and shall be taken within twelve months from the date earned. If compensatory time

## On-Call and Emergency Callback Pay Policy (cont.)

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off is not given 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.

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### § 7. Overtime Pay for FLSA Subject

If an FLSA Subject employee works overtime while receiving on-call, 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.

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### § 8. Emergency Callback Compensation

#### § 8.1. Emergency Callback – FLSA Subject

- (1) 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. The Office of State Human Resources may approve a higher rate of compensation if justified by labor market data.
- (2) 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.
- (3) If the time on callback is more than the two hours allowed, the employee shall be compensated for the actual time on callback.
- (4) Management shall determine a reasonable time for which preparation and travel to the worksite shall be compensated.
- (5) 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.
- (6) Employees whose work continues following the end of the regularly scheduled hours of work are not eligible for the callback.
- (7) Time actually worked and travel to the worksite shall be included in hours worked for determining overtime hours.

## On-Call and Emergency Callback Pay Policy (cont.)

(8) Emergency callback pay must be included in calculating the employee's regular hourly rate for overtime pay.

See examples on the following pages.

### § 8.2. Emergency Callback - FLSA Not Subject:

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

If the agency head determines that temporary working or market conditions justify, they may work with the Office of State Human Resources to determine if an FLSA Not Subject position is temporarily eligible for on-call and/or emergency callback pay and the appropriate compensation, based on documented survey data of prevailing practice in the applicable labor market.

### § 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.

#### EXAMPLES:

Employee's hourly rate = \$13.00

On-call rate approved by OSHR = \$2.00

#### Example No. 1 – All emergency call-back occurred during on-call hours

On-call hours-----8 (Sunday – 8:00 a.m. – 4:00 p.m.)

Hours emergency callback-----4 (Called back at 10:00 a.m.)

Hours on-call to be paid-----4 (On-call minus 4 hrs callback)

\$13 x 44 (40 worked + 4 hours callback) = \$572.00

\$2 x 4 hours (on-call) = \$ 8.00

\$580.00/44 = \$ 13.18

(Overtime rate)

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 \$13.18 x 4 (OT for callback) x .5 = \$ 26.36 (plus longevity if applicable)

Total

Wages Earned \$606.36

## On-Call and Emergency Callback Pay Policy (cont.)

### Example No. 2 – Part of emergency call back occurred during on-call hours

On-call hours-----8 (Sunday - 8:00 a.m. – 4:00 p.m.)

Hours on emergency callback-----4 (Called back at 3:00 p.m.)

Hours to be paid on-call-----7 (8 hrs minus 1 hr callback)

$\$13 \times 44$  (40 hrs worked + 4 hrs callback) = \$572.00

$\$2 \times 7$  hours (on-call) = \$ 14.00

$\$586.00/44 = \$ 13.32$

(Overtime rate)

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 $\$13.32 \times 4$  (OT for callback)  $\times .5$  = \$ 26.64 (plus longevity if applicable)

Total Wages

Earned \$612.64

### Example No. 3 – Less than 2 hours emergency callback

On-call hours 8

(Sunday - 8:00 a.m. – 4:00 p.m.)

Hours on emergency callback--2 (Called back at 1:00 p.m.; worked  
 1 hour and 30 min.)

Hours to be paid on-call-----6 (8 hours minus 2 hours minimum callback)

$\$13 \times 42$  (40 hrs worked + 2 hours callback) = \$546.00

$\$2 \times 6$  hours (on-call) = \$ 12.00

$\$558.00/42 = \$ 13.29$

(Overtime rate)

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 $\$13.29 \times 1.5$  (OT for callback)  $\times .5$  = \$ 9.97 (plus longevity if applicable)

Total Wages Earned \$567.97

## On-Call and Emergency Callback Pay Policy (cont.)

Example No. 4 – Includes Shift Pay

On-call hours-----8 (Sunday - 3:00 p.m. –11 :00 p.m.)

Hours on emergency callback---4 (Called back at 5:00 p.m.)

Hours to be paid on-call-----4 (8 hours minus 4 hours callback)

\$13 x 44 (40 hrs worked + 4 hours callback) = \$572.00

\$2 x 4 hours (on-call) = \$ 8.00

Shift (\$13 x 8 x 10%) = \$ 10.40

\$590.40/44 = \$ 13.42

(Overtime rate)

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 \$13.42 x 4 (OT for callback) x .5 = \$ 26.84 (plus longevity\_if applicable)

Total Wages

Earned \$617.24

### § 10. Sources of Authority

This policy is issued under any and all of the following sources of law:

- [N.C.G.S. § 126-4\(2\)](#)

It is compliant with the Administrative Code rules at:

- [25 NCAC 01D .0200](#)

### § 11. History of This Policy

Date	Version
February 1, 1987	First version - New policy.
August 1, 1987	Example added.
December 1, 1993	Added provision for on-call compensation for employees in criminal justice positions, which provide electronic house arrest immediate response services.
June 1, 2004	1) Combine the On-Call Compensation and Emergency Callback Policies. 2) Provide that both the classes eligible and the rates shall be based on documented survey data of prevailing practices in the applicable labor market. 3) Retain a minimum of 2 hours for emergency callback, with a provision that exceptions may be made if justified by labor market data.

**On-Call and Emergency Callback Pay Policy (cont.)**

July 1, 2004	Advisory Note added to incorporate the revised compensation rates for On-Call Pay outlined in our memo dated July 12, 2004.
January 1, 2007	Revised to clarify that compensatory time is paid at the on-call rate applicable to the position.
October 1, 2008	Clarified that FLSA exempt employees are normally not eligible for oncall pay and emergency callback. Compensatory time may be utilized or the agency may work with the Office of State Personnel to determine if the labor market would justify either for an FLSA exempt position.
April 1, 2009	Adds a note under the “Definitions” paragraph to clarify that leave time and on-call time cannot overlap. However, an employee may be on vacation during the 8-hour workday and still be on-call for the remaining 16 hours in the day.
July 11, 2024	<ul style="list-style-type: none"> <li>• Added to Section 2, as part of the definition of “On-Call,” words from the “Waiting Time” section (§ 14) of the proposed revised Hours of Work and Overtime Compensation Policy. These words describe whether time spent available to be called back to work is time worked under the Fair Labor Standards Act.</li> <li>• In Section 5 of this policy, added a cross reference to the same section of the Hours of Work and Overtime Compensation Policy.</li> <li>• Changed “FLSA non-exempt” to “FLSA Subject” and “FLSA exempt” to “FLSA Not Subject” throughout to match the Hours of Work and Overtime Compensation policy terminology.</li> </ul>