

WD82229

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**IN THE MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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**THOMAS HOOTSELLE, JR., *et al.*,**

*Respondents,*

**v.**

**MISSOURI DEPARTMENT OF CORRECTIONS,**

*Appellant.*

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**Appeal from the Circuit Court of Cole County, Missouri  
The Honorable Patricia S. Joyce**

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**RESPONDENTS' APPENDIX**

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Vernon's Annotated Missouri Statutes  
Title XVIII. Labor and Industrial Relations  
Chapter 290. Wages, Hours and Dismissal Rights (Refs & Annos)  
Minimum Wage Law (Refs & Annos)

V.A.M.S. 290.520

290.520. Employer to keep records--director may inspect, records to be confidential

Currentness

Every employer subject to any provision of sections 290.500 to 290.530 or any regulation issued under sections 290.500 to 290.530 shall make and keep for a period of not less than three years on or about the premises wherein any employee is employed or at some other premises which is suitable to the employer, a record of the name, address and occupation of each of his employees, the rate of pay, the amount paid each pay period to each employee, the hours worked each day and each workweek by the employee and any goods or services provided by the employer to the employee as provided in section 290.512. The records shall be open for inspection by the director by appointment. Where the records required under this section are kept outside the state, the records shall be made available to the director upon demand. Every such employer shall furnish to the director on demand a sworn statement of time records and information upon forms prescribed or approved by the director. All the records and information obtained by the department of labor and industrial relations are confidential and shall be disclosed only on order of a court of competent jurisdiction.

**Credits**

(L.1990, H.B. No. 1881, § 9.)

V. A. M. S. 290.520, MO ST 290.520

Statutes are current with emergency legislation approved as May 24, 2019 from the 2019 First Regular Session of the 100th General Assembly. Constitution is current through the November 6, 2018 General Election.

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Vernon's Annotated Missouri Statutes  
Title XXXIII. Evidence and Legal Advertisements  
Chapter 490. Evidence (Refs & Annos)

V.A.M.S. 490.065

490.065. Expert witness, opinion testimony admissible--hypothetical question not required, when

Effective: August 28, 2017  
Currentness

1. In actions brought under chapter 451, 452, 453, 454, or 455 or in actions adjudicated in juvenile courts under chapter 211 or in family courts under chapter 487, or in all proceedings before the probate division of the circuit court, or in all actions or proceedings in which there is no right to a jury trial:

(1) If scientific, technical or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education may testify thereto in the form of an opinion or otherwise;

(2) Testimony by such an expert witness in the form of an opinion or inference otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact;

(3) The facts or data in a particular case upon which an expert bases an opinion or inference may be those perceived by or made known to him at or before the hearing and must be of a type reasonably relied upon by experts in the field in forming opinions or inferences upon the subject and must be otherwise reasonably reliable;

(4) If a reasonable foundation is laid, an expert may testify in terms of opinion or inference and give the reasons therefor without the use of hypothetical questions, unless the court believes the use of a hypothetical question will make the expert's opinion more understandable or of greater assistance to the jury due to the particular facts of the case.

2. In all actions except those to which subsection 1 of this section applies:

(1) A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:

(a) The expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;

(b) The testimony is based on sufficient facts or data;

(c) The testimony is the product of reliable principles and methods; and

(d) The expert has reliably applied the principles and methods to the facts of the case;

(2) An expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed. If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted. But if the facts or data would otherwise be inadmissible, the proponent of the opinion may disclose them to the jury only if their probative value in helping the jury evaluate the opinion substantially outweighs their prejudicial effect;

(3)(a) An opinion is not objectionable just because it embraces an ultimate issue.

(b) In a criminal case, an expert witness shall not state an opinion about whether the defendant did or did not have a mental state or condition that constitutes an element of the crime charged or of a defense. Those matters are for the trier of fact alone;

(4) Unless the court orders otherwise, an expert may state an opinion and give the reasons for it without first testifying to the underlying facts or data. But the expert may be required to disclose those facts or data on cross-examination.

3. The provisions of this section shall not prevent a person, partnership, association, or corporation, as owner, from testifying as to the reasonable market value of the owner's land.

#### **Credits**

(L.1989, S.B. Nos. 127, 72, 161, 171, 275 & 120, § A. Amended by L.2017, H.B. No. 153, § A, eff. Aug. 28, 2017.)

#### Notes of Decisions (500)

V. A. M. S. 490.065, MO ST 490.065

Statutes are current with emergency legislation approved as May 24, 2019 from the 2019 First Regular Session of the 100th General Assembly. Constitution is current through the November 6, 2018 General Election.

Vernon's Annotated Missouri Statutes  
Title XXXVI. Statutory Actions and Torts  
Chapter 527. Declaratory Judgments; Actions Involving Land Titles; Lis Pendens; Change of Name (Refs  
& Annos)

V.A.M.S. 527.010

527.010. Scope

Currentness

The circuit courts of this state, within their respective jurisdictions shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect; and such declarations shall have the force and effect of a final judgment or decree.

**Credits**

(R.S.1939, § 1126. Amended by L.1978, H.B. 1634, p. 952, § A (§ 1), eff. Jan. 2, 1979.)

Notes of Decisions (410)

V. A. M. S. 527.010, MO ST 527.010

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Vernon's Annotated Missouri Statutes  
Title XXXVI. Statutory Actions and Torts  
Chapter 527. Declaratory Judgments; Actions Involving Land Titles; Lis Pendens; Change of Name (Refs  
& Annos)

V.A.M.S. 527.060

527.060. Discretionary

Currentness

The court may refuse to render or enter a declaratory judgment or decree where such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding.

**Credits**

(R.S.1939, § 1131.)

Notes of Decisions (22)

V. A. M. S. 527.060, MO ST 527.060

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Vernon's Annotated Missouri Rules  
Supreme Court Rules  
Rules of Civil Procedure  
Part I. Rules Governing Civil Procedure in the Circuit Courts  
Rule 52. Parties

Supreme Court Rule 52.08

52.08. Class Actions

Currentness

**(a) Prerequisites to a Class Action.** One or more members of a class may sue or be sued as representative parties on behalf of all only if (1) the class is so numerous that joinder of all members is impracticable, (2) there are questions of law or fact common to the class, (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class, and (4) the representative parties will fairly and adequately protect the interests of the class.

**(b) Class Actions Maintainable.** An action may be maintained as a class action if the prerequisites of subdivision (a) are satisfied, and in addition:

(1) the prosecution of separate actions by or against individual members of the class would create a risk of

(A) inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the party opposing the class, or

(B) adjudications with respect to individual members of the class which would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests; or

(2) the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole; or

(3) the court finds that the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy. The matters pertinent to the findings include:

(A) the interest of members of the class in individually controlling the prosecution or defense of separate actions;

(B) the extent and nature of any litigation concerning the controversy already commenced by or against members of the class;

(C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum;

(D) the difficulties likely to be encountered in the management of a class action.

**(c) Determination by Order Whether Class Action to Be Maintained--Notice--Judgment--Actions Conducted Partially as Class Actions.**

(1) As soon as practicable after the commencement of an action brought as a class action, the court shall determine by order whether it is to be so maintained. An order under this Rule 52.08(c)(1) may be conditional and may be altered or amended before the decision on the merits.

(2) In any class action maintained under Rule 52.08(b)(3), the court shall direct to the members of the class the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice shall advise each member that: (A) the court will exclude the member from the class if requested by a specified date; (B) the judgment, whether favorable or not, will include all members who do not request exclusion; and (C) any member who does not request exclusion may, if desired, enter an appearance through counsel.

(3) The judgment in an action maintained as a class action under Rule 52.08(b)(1) or Rule 52.08(b)(2), whether or not favorable to the class, shall include and describe those whom the court finds to be members of the class. The judgment in an action maintained as a class action under Rule 52.08(b)(3), whether or not favorable to the class, shall include and specify or describe those to whom the notice provided in Rule 52.08(c)(2) was directed, and who have not requested exclusion, and whom the court finds to be members of the class.

(4) When appropriate an action may be brought or maintained as a class action with respect to particular issues or a class may be divided into subclasses and each subclass treated as a class, and the provisions of this Rule 52.08 shall then be construed and applied accordingly.

**(d) Orders in Conduct of Actions.** In the conduct of actions to which this Rule applies, the court may make appropriate orders:

(1) determining the course of proceedings or prescribing measures to prevent undue repetition or complication in the presentation of evidence or argument;

(2) requiring, for the protection of the members of the class or otherwise for the fair conduct of the action, that notice be given in such manner as the court may direct to some or all of the members of any step in the action, or of the proposed extent of the judgment, or of the opportunity of members to signify whether they consider the representation fair and adequate, to intervene and present claims or defenses, or otherwise to come into the action;

(3) imposing conditions on the representative parties or on intervenors;

**52.08. Class Actions, MO R RCP Rule 52.08**

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(4) requiring that the pleadings be amended to eliminate therefrom allegations as to representation of absent persons, and that the action proceed accordingly;

(5) dealing with similar procedural matters.

The orders may be combined with an order under Rule 62, and may be altered or amended as may be desirable from time to time.

**(e) Dismissal or Compromise.** A class action shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs.

**(f) Appeals.** An appellate court may permit an appeal from an order of a circuit court granting or denying class action certification under this Rule 52.08 if a petition is timely filed as provided in Rule 84.035. The filing of a petition shall not stay the proceedings in the trial court unless the trial judge or the appellate court so orders.

**Credits**

(Adopted April 21, 1972, eff. Dec. 1, 1972. Amended Sept. 28, 1993, eff. Jan. 1, 1994; June 21, 2005, eff. Jan. 1, 2006.)

**Editors' Notes****COMMITTEE NOTE--1974**

This is the same as Rule 23 of the Federal Rules of Civil Procedure.

Notes of Decisions (466)

V.A.M.R. Rule 52.08, MO R RCP Rule 52.08

Current with amendments received through April 1, 2019.

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Vernon's Annotated Missouri Rules  
Supreme Court Rules  
Rules of Civil Procedure  
Part III. Rules Relating to Special Actions  
Rule 87. Declaratory Judgments

Supreme Court Rule 87.02

87.02. Who May Obtain Declaration of Rights or Other Legal Relations

Currentness

**(a) Persons Interested Under Deeds--Wills--Contracts--Statutes and the Like.** Any person interested under a deed, will, written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.

**(b) Trusts, Infants, Lunatics, Incompetents.** Any person interested as or through an executor, administrator, trustee, guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin or cestui que trust, in the administration of a trust, or of the estate of a decedent, an infant, lunatic or insolvent, may have a declaration of rights or legal relations in respect thereto:

(1) To ascertain any class of creditors, devisees, legatees, heirs, next of kin or others; or

(2) To direct the executors, administrators, or trustees to do or abstain from doing any particular act in their fiduciary capacity; or

(3) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

**(c) Declaratory Judgment in Respect to Agency Rules.** The power of the courts of this state to render declaratory judgments shall extend to declaratory judgments respecting the validity of agency rules, or of threatened applications thereof, and such suits may be maintained against agencies whether or not the plaintiff has first requested the agency to pass upon the question presented.

**(d) Enumeration Not Exclusive.** The foregoing enumeration of instances in which persons may obtain relief by declaratory judgments is illustrative, and anyone may obtain such relief in any instance in which it will terminate a controversy or remove an uncertainty.

**Credits**

(Amended June 10, 1980, eff. Jan. 1, 1981.)

**Editors' Notes**

**COMMITTEE NOTE--1959**

**Note:** This rule is substantially Sections 527.020, 527.040 and 527.050, RSMo 1959.

Notes of Decisions (25)

V.A.M.R. Rule 87.02, MO R RCP Rule 87.02

Current with amendments received through April 1, 2019.

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Vernon's Annotated Missouri Rules  
Supreme Court Rules  
Rules of Civil Procedure  
Part III. Rules Relating to Special Actions  
Rule 87. Declaratory Judgments

Supreme Court Rule 87.10

87.10. Further Relief May be Granted, When--Procedure

Currentness

Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application therefor shall be by petition to a court having jurisdiction to grant the relief. If the application be deemed sufficient, the court shall, on reasonable notice, require any adverse party whose rights have been adjudicated by the declaratory judgment or decree to show cause why further relief should not be granted forthwith.

**Editors' Notes**

**COMMITTEE NOTE--1959**

**Note:** This rule is identical with Section 527.080, RSMo 1959.

Notes of Decisions (4)

V.A.M.R. Rule 87.10, MO R RCP Rule 87.10

Current with amendments received through April 1, 2019.

Code of Federal Regulations  
Title 29. Labor  
Subtitle B. Regulations Relating to Labor  
Chapter V. Wage and Hour Division, Department of Labor  
Subchapter A. Regulations  
Part 516. Records to be Kept by Employers (Refs & Annos)  
Subpart A. General Requirements

29 C.F.R. § 516.2

§ 516.2 Employees subject to minimum wage or minimum wage and overtime provisions pursuant to section 6 or sections 6 and 7(a) of the Act.

Currentness

(a) Items required. Every employer shall maintain and preserve payroll or other records containing the following information and data with respect to each employee to whom section 6 or both sections 6 and 7(a) of the Act apply:

(1) Name in full, as used for Social Security recordkeeping purposes, and on the same record, the employee's identifying symbol or number if such is used in place of name on any time, work, or payroll records,

(2) Home address, including zip code,

(3) Date of birth, if under 19,

(4) Sex and occupation in which employed (sex may be indicated by use of the prefixes Mr., Mrs., Miss., or Ms.) (Employee's sex identification is related to the equal pay provisions of the Act which are administered by the Equal Employment Opportunity Commission. Other equal pay recordkeeping requirements are contained in 29 CFR part 1620.)

(5) Time of day and day of week on which the employee's workweek begins (or for employees employed under section 7(k) of the Act, the starting time and length of each employee's work period). If the employee is part of a workforce or employed in or by an establishment all of whose workers have a workweek beginning at the same time on the same day, a single notation of the time of the day and beginning day of the workweek for the whole workforce or establishment will suffice,

(6)(i) Regular hourly rate of pay for any workweek in which overtime compensation is due under section 7(a) of the Act, (ii) explain basis of pay by indicating the monetary amount paid on a per hour, per day, per week, per piece, commission on sales, or other basis, and (iii) the amount and nature of each payment which, pursuant to section 7(e) of the Act, is excluded from the "regular rate" (these records may be in the form of vouchers or other payment data),

(7) Hours worked each workday and total hours worked each workweek (for purposes of this section, a “workday” is any fixed period of 24 consecutive hours and a “workweek” is any fixed and regularly recurring period of 7 consecutive workdays),

(8) Total daily or weekly straight-time earnings or wages due for hours worked during the workday or workweek, exclusive of premium overtime compensation,

(9) Total premium pay for overtime hours. This amount excludes the straight-time earnings for overtime hours recorded under paragraph (a)(8) of this section,

(10) Total additions to or deductions from wages paid each pay period including employee purchase orders or wage assignments. Also, in individual employee records, the dates, amounts, and nature of the items which make up the total additions and deductions,

(11) Total wages paid each pay period,

(12) Date of payment and the pay period covered by payment.

(b) Records of retroactive payment of wages. Every employer who makes retroactive payment of wages or compensation under the supervision of the Administrator of the Wage and Hour Division pursuant to section 16(c) and/or section 17 of the Act, shall:

(1) Record and preserve, as an entry on the pay records, the amount of such payment to each employee, the period covered by such payment, and the date of payment.

(2) Prepare a report of each such payment on a receipt form provided by or authorized by the Wage and Hour Division, and (i) preserve a copy as part of the records, (ii) deliver a copy to the employee, and (iii) file the original, as evidence of payment by the employer and receipt by the employee, with the Administrator or an authorized representative within 10 days after payment is made.

(c) Employees working on fixed schedules. With respect to employees working on fixed schedules, an employer may maintain records showing instead of the hours worked each day and each workweek as required by paragraph (a)(7) of this section, the schedule of daily and weekly hours the employee normally works. Also,

(1) In weeks in which an employee adheres to this schedule, indicates by check mark, statement or other method that such hours were in fact actually worked by him, and

(2) In weeks in which more or less than the scheduled hours are worked, shows that exact number of hours worked each day and each week.



AUTHORITY: Sec. 11, 52 Stat. 1066, as amended, 29 U.S.C. 211. Section 516.28 also issued under Pub.L. 104-188, § 2105(b); Pub.L. 110-28, 121 Stat. 112. Section 516.33 also issued under 52 Stat. 1060, as amended; 29 U.S.C. 201 et seq. Section 516.34 also issued under Sec. 7, 103 Stat. 944, 29 U.S.C. 207(q).

Notes of Decisions (34)

Current through June 27, 2019; 84 FR 30631.

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Code of Federal Regulations  
Title 29. Labor  
Subtitle B. Regulations Relating to Labor  
Chapter V. Wage and Hour Division, Department of Labor  
Subchapter A. Regulations  
Part 553. Application of the Fair Labor Standards Act to Employees of State and Local Governments  
(Refs & Annos)  
Subpart C. Fire Protection and Law Enforcement Employees of Public Agencies  
Tour of Duty and Compensable Hours of Work Rules

29 C.F.R. § 553.221

§ 553.221 Compensable hours of work.

Effective: January 9, 2017  
Currentness

(a) The general rules on compensable hours of work are set forth in 29 CFR part 785 which is applicable to employees for whom the section 7(k) exemption is claimed. Special rules for sleep time (§ 553.222) apply to both law enforcement and employees in fire protection activities for whom the section 7(k) exemption is claimed. Also, special rules for meal time apply in the case of employees in fire protection activities (§ 553.223). Part 785 does not discuss the special provisions that apply to State and local government workers with respect to the treatment of substitution, special details for a separate and independent employer, early relief, and work performed on an occasional or sporadic and part-time basis, all of which are covered in this subpart.

(b) Compensable hours of work generally include all of the time during which an employee is on duty on the employer's premises or at a prescribed workplace, as well as all other time during which the employee is suffered or permitted to work for the employer. Such time includes all pre-shift and post-shift activities which are an integral part of the employee's principal activity or which are closely related to the performance of the principal activity, such as attending roll call, writing up and completing tickets or reports, and washing and re-racking fire hoses.

(c) Time spent away from the employer's premises under conditions that are so circumscribed that they restrict the employee from effectively using the time for personal pursuits also constitutes compensable hours of work. For example, where a police station must be evacuated because of an electrical failure and the employees are expected to remain in the vicinity and return to work after the emergency has passed, the entire time spent away from the premises is compensable. The employees in this example cannot use the time for their personal pursuits.

(d) An employee who is not required to remain on the employer's premises but is merely required to leave work at home or with company officials where he or she may be reached is not working while on call. Time spent at home on call may or may not be compensable depending on whether the restrictions placed on the employee preclude using the time for personal pursuits. Where, for example, an employee in fire protection activities has returned home after the shift, with the understanding that he or she is expected to return to work in the event of an emergency in the night, such time spent at home is normally not compensable. On the other hand, where the conditions placed on the employee's activities are so restrictive that the employee cannot use the time effectively for personal pursuits, such time spent on call is compensable.

(e) Normal home to work travel is not compensable, even where the employee is expected to report to work at a location away from the location of the employer's premises.

(f) A police officer, who has completed his or her tour of duty and who is given a patrol car to drive home and use on personal business, is not working during the travel time even where the radio must be left on so that the officer can respond to emergency calls. Of course, the time spent in responding to such calls is compensable.

(g) The fact that employees cannot return home after work does not necessarily mean that they continue on duty after their shift. For example, employees in fire protection activities working on a forest fire may be transported to a camp after their shift in order to rest and eat a meal. As a practical matter, the employees in fire protection activities may be precluded from going to their homes because of the distance of the fire from their residences.

**Credits**

[52 FR 2648, Jan. 23, 1987; 76 FR 18857, April 5, 2011; 82 FR 2229, Jan. 9, 2017]

**AUTHORITY:** Secs. 1–19, 52 Stat. 1060, as amended (29 U.S.C. 201–219); Pub.L. 99–150, 99 Stat. 787 (29 U.S.C. 203, 207, 211). Pub.L. 106–151, 113 Stat. 1731 (29 U.S.C. 203(y)).

Notes of Decisions (27)

Current through June 27, 2019; 84 FR 30631.

Code of Federal Regulations  
Title 29. Labor  
Subtitle B. Regulations Relating to Labor  
Chapter V. Wage and Hour Division, Department of Labor  
Subchapter B. Statements of General Policy or Interpretation Not Directly Related to Regulations  
Part 785. Hours Worked (Refs & Annos)  
Subpart C. Application of Principles  
Employees "Suffered or Permitted" to Work

29 C.F.R. § 785.13

§ 785.13 Duty of management.

Currentness

In all such cases it is the duty of the management to exercise its control and see that the work is not performed if it does not want it to be performed. It cannot sit back and accept the benefits without compensating for them. The mere promulgation of a rule against such work is not enough. Management has the power to enforce the rule and must make every effort to do so.

AUTHORITY: 52 Stat. 1060; 29 U.S.C. 201–219; 29 U.S.C. 254. Pub.L. 104–188, 100 Stat. 1755.

Notes of Decisions (22)

Current through June 27, 2019; 84 FR 30631.

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Code of Federal Regulations  
Title 29. Labor  
Subtitle B. Regulations Relating to Labor  
Chapter V. Wage and Hour Division, Department of Labor  
Subchapter B. Statements of General Policy or Interpretation Not Directly Related to Regulations  
Part 785. Hours Worked (Refs & Annos)  
Subpart C. Application of Principles  
Travelttime

29 C.F.R. § 785.41

§ 785.41 Work performed while traveling.

Currentness

Any work which an employee is required to perform while traveling must, of course, be counted as hours worked. An employee who drives a truck, bus, automobile, boat or airplane, or an employee who is required to ride therein as an assistant or helper, is working while riding, except during bona fide meal periods or when he is permitted to sleep in adequate facilities furnished by the employer.

AUTHORITY: 52 Stat. 1060; 29 U.S.C. 201–219; 29 U.S.C. 254. Pub.L. 104–188, 100 Stat. 1755.

Notes of Decisions (8)

Current through June 27, 2019; 84 FR 30631.

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Code of Federal Regulations  
Title 29. Labor  
Subtitle B. Regulations Relating to Labor  
Chapter V. Wage and Hour Division, Department of Labor  
Subchapter B. Statements of General Policy or Interpretation Not Directly Related to Regulations  
Part 785. Hours Worked (Refs & Annos)  
Subpart D. Recording Working Time

29 C.F.R. § 785.47

§ 785.47 Where records show insubstantial or insignificant periods of time.

#### Currentness

In recording working time under the Act, insubstantial or insignificant periods of time beyond the scheduled working hours, which cannot as a practical administrative matter be precisely recorded for payroll purposes, may be disregarded. The courts have held that such trifles are de minimis. (*Anderson v. Mt. Clemens Pottery Co.*, 328 U.S. 680 (1946)) This rule applies only where there are uncertain and indefinite periods of time involved of a few seconds or minutes duration, and where the failure to count such time is due to considerations justified by industrial realities. An employer may not arbitrarily fail to count as hours worked any part, however small, of the employee's fixed or regular working time or practically ascertainable period of time he is regularly required to spend on duties assigned to him. See *Glenn L. Martin Nebraska Co. v. Culkin*, 197 F. 2d 981, 987 (C.A. 8, 1952), cert. denied, 344 U.S. 866 (1952), rehearing denied, 344 U.S. 888 (1952), holding that working time amounting to \$1 of additional compensation a week is "not a trivial matter to a workingman," and was not de minimis; *Addison v. Huron Stevedoring Corp.*, 204 F. 2d 88, 95 (C.A. 2, 1953), cert. denied 346 U.S. 877, holding that "To disregard workweeks for which less than a dollar is due will produce capricious and unfair results." *Hawkins v. E. I. du Pont de Nemours & Co.*, 12 W.H. Cases 448, 27 Labor Cases, para. 69,094 (E.D. Va., 1955), holding that 10 minutes a day is not de minimis.

AUTHORITY: 52 Stat. 1060; 29 U.S.C. 201–219; 29 U.S.C. 254. Pub.L. 104–188, 100 Stat. 1755.

Notes of Decisions (17)

Current through June 27, 2019; 84 FR 30631.

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Code of Federal Regulations  
Title 29. Labor  
Subtitle B. Regulations Relating to Labor  
Chapter V. Wage and Hour Division, Department of Labor  
Subchapter B. Statements of General Policy or Interpretation Not Directly Related to Regulations  
Part 790. General Statement as to the Effect of the Portal-to-Portal Act of 1947 on the Fair Labor Standards Act of 1938 (Refs & Annos)  
Provisions Relating to Certain Activities Engaged in by Employees on or After May 14, 1947

29 C.F.R. § 790.6

§ 790.6 Periods within the “workday” unaffected.

Currentness

(a) Section 4 of the Portal Act does not affect the computation of hours worked within the “workday” proper, roughly described as the period “from whistle to whistle,” and its provisions have nothing to do with the compensability under the Fair Labor Standards Act of any activities engaged in by an employee during that period.<sup>34</sup> Under the provisions of section 4, one of the conditions that must be present before “preliminary” or “postliminary” activities are excluded from hours worked is that they ‘occur either prior to the time on any particular workday at which the employee commences, or subsequent to the time on any particular workday at which he ceases’ the principal activity or activities which he is employed to perform. Accordingly, to the extent that activities engaged in by an employee occur after the employee commences to perform the first principal activity on a particular workday and before he ceases the performance of the last principal activity on a particular workday, the provisions of that section have no application. Periods of time between the commencement of the employee’s first principal activity and the completion of his last principal activity on any workday must be included in the computation of hours worked to the same extent as would be required if the Portal Act had not been enacted.<sup>35</sup> The principles for determining hours worked within the “workday” proper will continue to be those established under the Fair Labor Standards Act without reference to the Portal Act,<sup>36</sup> which is concerned with this question only as it relates to time spent outside the “workday” in activities of the kind described in section 4.<sup>37</sup>

<sup>34</sup> The report of the Senate Judiciary Committee states (p. 47), “Activities of an employee which take place during the workday are \* \* \* not affected by this section (section 4 of the Portal-to-Portal Act, as finally enacted) and such activities will continue to be compensable or not without regard to the provisions of this section.”

<sup>35</sup> See Senate Report, pp. 47, 48; Conference Report, p. 12; statement of Senator Wiley, explaining the conference agreement to the Senate, 93 Cong. Rec. 4269 (also 2084, 2085); statement of Representative Gwynne, explaining the conference agreement to the House of Representatives, 93 Cong. Rec. 4388; statements of Senator Cooper, 93 Cong. Rec. 2293–2294, 2296–2300; statements of Senator Donnell, 93 Cong. Rec. 2181, 2182, 2362.

<sup>36</sup> The determinations of hours worked under the Fair Labor Standards Act, as amended is discussed in Part 785 of this chapter.

<sup>37</sup> See statement of Senator Wiley explaining the conference agreement to the Senate, 93 Cong. Rec. 3269. See also the discussion in §§ 790.7 and 790.8.

(b) “Workday” as used in the Portal Act means, in general, the period between the commencement and completion on the same workday of an employee's principal activity or activities. It includes all time within that period whether or not the employee engages in work throughout all of that period. For example, a rest period or a lunch period is part of the “workday”, and section 4 of the Portal Act therefore plays no part in determining whether such a period, under the particular circumstances presented, is or is not compensable, or whether it should be included in the computation of hours worked.<sup>38</sup> If an employee is required to report at the actual place of performance of his principal activity at a certain specific time, his “workday” commences at the time he reports there for work in accordance with the employer's requirement, even though through a cause beyond the employee's control, he is not able to commence performance of his productive activities until a later time. In such a situation the time spent waiting for work would be part of the workday,<sup>39</sup> and section 4 of the Portal Act would not affect its inclusion in hours worked for purposes of the Fair Labor Standards Act.

38 Senate Report, pp. 47, 48. Cf. statement of Senator Wiley explaining the conference agreement to the Senate, 93 Cong. Rec. 4269; statement of Senator Donnell, 93 Cong. Rec. 2362; statements of Senator Cooper, 93 Cong. Rec. 2297, 2298.

39 Colloquy between Senators Cooper and McGrath, 93 Cong. Rec. 2297, 2298.

#### Credits

[12 FR 7655, Nov. 18, 1947, as amended at 35 FR 7383, May 12, 1970]

AUTHORITY: 52 Stat. 1060, as amended; 110 Stat. 1755; 29 U.S.C. 201–219; 29 U.S.C. 254.

Notes of Decisions (17)

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Code of Federal Regulations  
Title 29. Labor  
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Part 790. General Statement as to the Effect of the Portal-to-Portal Act of 1947 on the Fair Labor Standards Act of 1938 (Refs & Annos)  
Provisions Relating to Certain Activities Engaged in by Employees on or After May 14, 1947

29 C.F.R. § 790.8

§ 790.8 “Principal” activities.

Currentness

(a) An employer's liabilities and obligations under the Fair Labor Standards Act with respect to the “principal” activities his employees are employed to perform are not changed in any way by section 4 of the Portal Act, and time devoted to such activities must be taken into account in computing hours worked to the same extent as it would if the Portal Act had not been enacted.<sup>53</sup> But before it can be determined whether an activity is “preliminary or postliminary to (the) principal activity or activities” which the employee is employed to perform, it is generally necessary to determine what are such “principal” activities.<sup>54</sup>

<sup>53</sup> See §§ 790.4 through 790.6 of this bulletin and Part 785 of this chapter, which discusses the principles for determining hours worked under the Fair Labor Standards Act, as amended.

<sup>54</sup> Although certain “preliminary” and “postliminary” activities are expressly mentioned in the statute (see § 790.7(b)), they are described with reference to the place where principal activities are performed. Even as to these activities, therefore, identification of certain other activities as “principal” activities is necessary.

The use by Congress of the plural form “activities” in the statute makes it clear that in order for an activity to be a “principal” activity, it need not be predominant in some way over all other activities engaged in by the employee in performing his job;<sup>55</sup> rather, an employee may, for purposes of the Portal-to-Portal Act be engaged in several “principal” activities during the workday. The “principal” activities referred to in the statute are activities which the employee is “employed to perform”;<sup>56</sup> they do not include noncompensable “walking, riding, or traveling” of the type referred to in section 4 of the Act.<sup>57</sup> Several guides to determine what constitute “principal activities” was suggested in the legislative debates. One of the members of the conference committee stated to the House of Representatives that “the realities of industrial life,” rather than arbitrary standards, “are intended to be applied in defining the term ‘principal activity or activities’,” and that these words should “be interpreted with due regard to generally established compensation practices in the particular industry and trade.”<sup>58</sup> The legislative history further indicates that Congress intended the words “principal activities” to be construed liberally in the light of the foregoing principles to include any work of consequence performed for an employer, no matter when the work is performed.<sup>59</sup> A majority member of the committee which introduced this language into the bill explained to the Senate that it was considered “sufficiently broad to embrace within its terms such activities as are indispensable to the performance of productive work.”<sup>60</sup>

- 55 Cf. *Edward F. Allison Co., Inc. v. Commissioner of Internal Revenue*, 63 F. (2d) 553 (C.C.A. 8, 1933).
- 56 Cf. *Armour & Co. v. Wantock*, 323 U.S. 126, 132–134; *Skidmore v. Swift & Co.*, 323 U.S. 134, 136–137.
- 57 See statement of Senator Cooper, 93 Cong. Rec. 2297.
- 58 Remarks of Representative Walter, 93 Cong. Rec. 4389. See also statements of Senator Cooper, 93 Cong. Rec. 2297, 2299.
- 59 See statements of Senator Cooper, 93 Cong. Rec. 2296–2300. See also Senate Report, p. 48, and the President's message to Congress on approval of the Portal Act, May 14, 1947 (93 Cong. Rec. 5281).
- 60 See statement of Senator Cooper, 93 Cong. Rec. 2299.

(b) The term "principal activities" includes all activities which are an integral part of a principal activity.<sup>61</sup> Two examples of what is meant by an integral part of a principal activity are found in the Report of the Judiciary Committee of the Senate on the Portal-to-Portal Bill.<sup>62</sup> They are the following:

- 61 <sup>61</sup> Senate Report, p. 48; statements of Senator Cooper, 93 Cong. Rec. 2297–2299.
- 62 As stated in the Conference Report (p. 12), by Representative Gwynne in the House of Representatives (93 Cong. Rec. 4388) and by Senator Wiley in the Senate (93 Cong. Rec. 4371), the language of the provision here involved follows that of the Senate bill.

(1) In connection with the operation of a lathe an employee will frequently at the commencement of his workday oil, grease or clean his machine, or install a new cutting tool. Such activities are an integral part of the principal activity, and are included within such term.

(2) In the case of a garment worker in a textile mill, who is required to report 30 minutes before other employees report to commence their principal activities, and who during such 30 minutes distributes clothing or parts of clothing at the work-benches of other employees and gets machines in readiness for operation by other employees, such activities are among the principal activities of such employee.

Such preparatory activities, which the Administrator has always regarded as work and as compensable under the Fair Labor Standards Act, remain so under the Portal Act, regardless of contrary custom or contract.<sup>63</sup>

- 63 Statement of Senator Cooper, 93 Cong. Rec. 2297; colloquy between Senators Barkley and Cooper, 93 Cong. Rec. 2350. The fact that a period of 30 minutes was mentioned in the second example given by the committee does not mean that a different rule would apply where such preparatory activities take less time to perform. In a colloquy between Senators McGrath and Cooper, 93 Cong. Rec. 2298, Senator Cooper stated that "There was no definite purpose in using the words '30 minutes' instead of 15 or 10 minutes or 5 minutes or any other number of minutes." In reply to questions, he indicated that any amount

of time spent in preparatory activities of the types referred to in the examples would be regarded as a part of the employee's principal activity and within the compensable workday. Cf. *Anderson v. Mt. Clemens Pottery Co.*, 328 U.S. 680, 693.

(c) Among the activities included as an integral part of a principal activity are those closely related activities which are indispensable to its performance.<sup>64</sup> If an employee in a chemical plant, for example, cannot perform his principal activities without putting on certain clothes,<sup>65</sup> changing clothes on the employer's premises at the beginning and end of the workday would be an integral part of the employee's principal activity.<sup>66</sup> On the other hand, if changing clothes is merely a convenience to the employee and not directly related to his principal activities, it would be considered as a "preliminary" or "postliminary" activity rather than a principal part of the activity.<sup>67</sup> However, activities such as checking in and out and waiting in line to do so would not ordinarily be regarded as integral parts of the principal activity or activities.<sup>67</sup>

64 See statements of Senator Cooper, 93 Cong. Rec. 2297–2299, 2377; colloquy between Senators Barkley and Cooper, 93 Cong. Rec. 2350.

65 Such a situation may exist where the changing of clothes on the employer's premises is required by law, by rules of the employer, or by the nature of the work. See footnote 49.

66 See colloquy between Senators Cooper and McGrath, 93 Cong. Rec. 2297–2298.

67 See Senate Report, p. 47; statements of Senator Donnell, 93 Cong. Rec. 2305–2306, 2362; statements of Senator Cooper, 93 Cong. Rec. 2296–2297, 2298.

#### Credits

[12 FR 7655, Nov, 18, 1947, as amended at 35 FR 7383, May 12, 1970]

AUTHORITY: 52 Stat. 1060, as amended; 110 Stat. 1755; 29 U.S.C. 201–219; 29 U.S.C. 254.

Notes of Decisions (33)

Current through June 27, 2019; 84 FR 30631.

Code of Federal Regulations  
Title 5. Administrative Personnel  
Chapter I. Office of Personnel Management  
Subchapter B. Civil Service Regulations  
Part 551. Pay Administration Under the Fair Labor Standards Act (Refs & Annos)  
Subpart D. Hours of Work (Refs & Annos)  
General Provisions

5 C.F.R. § 551.401

§ 551.401 Basic principles.

Currentness

(a) All time spent by an employee performing an activity for the benefit of an agency and under the control or direction of the agency is “hours of work.” Such time includes:

- (1) Time during which an employee is required to be on duty;
- (2) Time during which an employee is suffered or permitted to work; and
- (3) Waiting time or idle time which is under the control of an agency and which is for the benefit of an agency.

(b) For an employee, as defined in 5 U.S.C. 5541(2), hours in a paid nonwork status (e.g., paid leave, holidays, compensatory time off, or excused absences) are “hours of work” under this part.

(c) Hours in an unpaid nonwork status (e.g., leave without pay, furlough, absence without leave) are not “hours of work” under this part.

(d) Time that is considered hours of work under this part shall be used only to determine an employee's entitlement to minimum wages or overtime pay under the Act, and shall not be used to determine hours of work for pay administration under title 5, United States Code, or any other authority.

(e) Irregular or occasional overtime work performed by an employee on a day on which work was not scheduled for that employee or for which the employee is required to return to his or her place of employment is deemed at least 2 hours in duration for the purpose of determining whether the employee may be entitled to overtime pay under this part, either in money or compensatory time off.

(f) For the purpose of determining hours of work in excess of 8 hours in a day under this part, agencies shall credit hours of work under § 410.402 of this chapter, part 532 of this chapter and 5 U.S.C. 5544, and part 550 of this chapter, as applicable.

(g) For the purpose of determining hours of work in excess of 40 hours in a week or in excess of another applicable overtime work standard under section 7(k) of the Fair Labor Standards Act, agencies shall credit hours of work under § 410.402 of this chapter, part 532 of this chapter and 5 U.S.C. 5544, and part 550 of this chapter, as applicable, that will not be compensated as hours of work in excess of 8 hours in a day, as well as any additional hours of work under this part.

(h) For the purpose of determining overtime pay for work in excess of 40 hours in a workweek under this part, time spent in a travel status is hours of work as provided in § 551.422 of this part and § 550.112(g) of this chapter or 5 U.S.C. 5544, as applicable.

**Credits**

[52 FR 47687, Dec. 16, 1987; 53 FR 27147, July 19, 1988; 56 FR 20343, May 3, 1991; 57 FR 59279, Dec. 15, 1992; 64 FR 69180, Dec. 10, 1999]

**AUTHORITY:** 5 U.S.C. 5542c; sec. 4(f) of the Fair Labor Standards Act for 1938, as amended by Public Law 93-259, 88 Stat. 55 (29 U.S.C. 204f).; Pub.L. 93-259; 29 U.S.C. 204f.

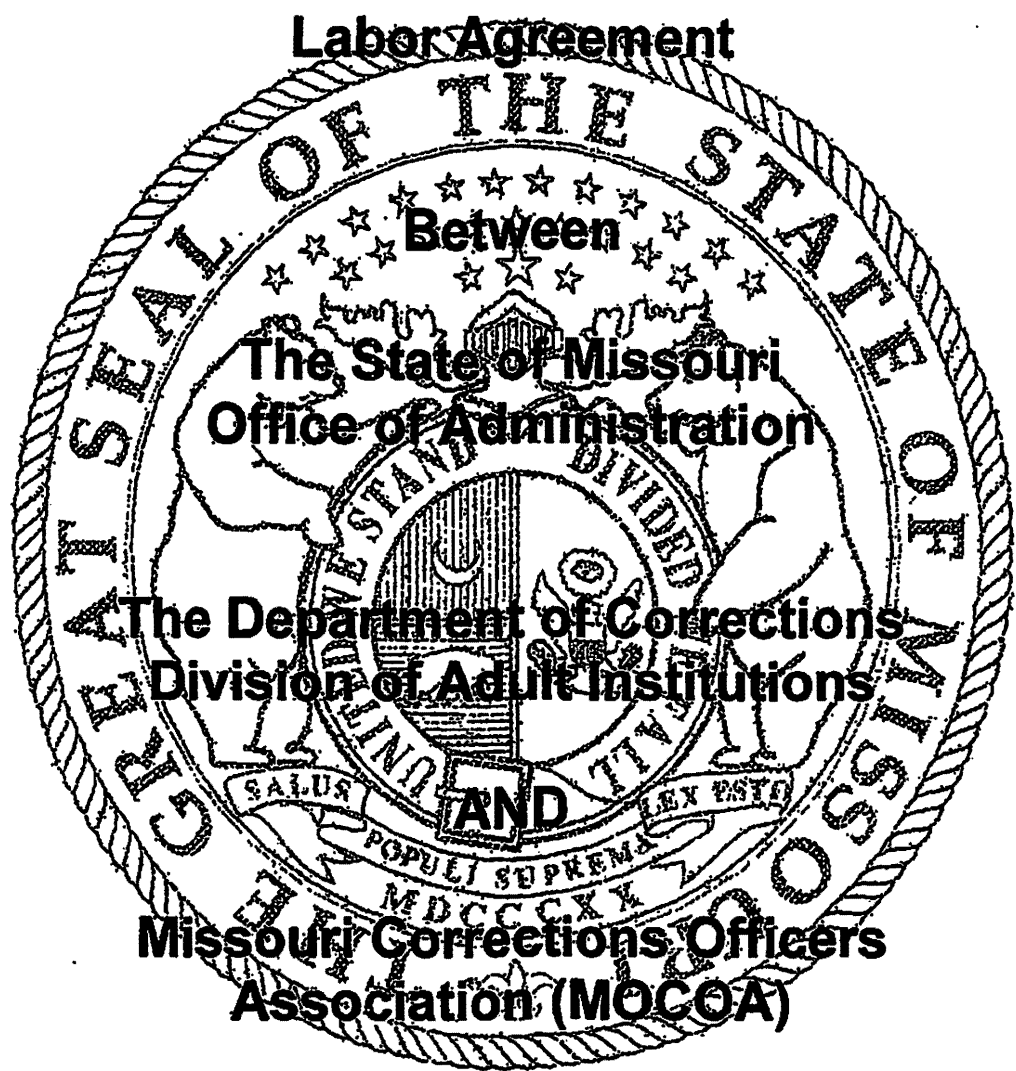
Notes of Decisions (32)

Current through June 27, 2019; 84 FR 30631.

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**Missouri Corrections Officers Association (MOCOA)**

**Corrections Officers I and II Bargaining Unit**

**10/1/2014 to 9/30/2018**

PLAINTIFF'S EXHIBIT  
69

**Section 11.10 Mandatory Comp Reduction**

The Employer will provide fourteen (14) days prior notice before scheduling mandatory compensatory time reduction.

**ARTICLE 12  
OVERTIME**

**Section 12.1**

When overtime is deemed necessary by the Employer it will be assigned on a voluntary basis when possible. In the event there are not enough volunteers, mandatory overtime assignments shall be distributed equitably among all employees of the bargaining unit. A mandatory overtime list for each shift, which will initially be based on inverse seniority, will be established and maintained for the purpose of equitable distribution of mandatory overtime. Seniority for the purpose of this Article is defined as total time in the classification from the most recent hire date.

Once an employee has physically worked two (2) or more hours of mandatory or voluntary overtime, his name shall be moved to the bottom of the list. When mandatory overtime is necessary it will be assigned beginning with the first employee at the top of the list. In this circumstance, staff will be given as much notice as possible that they are required to work overtime.

**Section 12.2**

The Employer will comply with the Fair Labor Standard Act (FLSA), RSMo 105.935 and 1 CSR 20-5 regarding the accrual and payment of overtime.

**ARTICLE 13  
GRIEVANCE**

**Section 13.1 Purpose**

The purpose of this article is to provide a satisfactory avenue to resolve grievances that arise in the work place between Employees and the Employer. The Employer and the Association recognize the importance of a timely resolution in these matters. This shall consist of grievances being filed in a timely manner by the Employees and a timely response from the Employer. If the Employer fails to issue a response in the time frame agreed upon the Employee shall have the right to move the grievance to the next step. The grievance will not revert back to the previous step unless agreed upon by both parties.

Nothing in this Article is intended to prohibit the Association from raising issues pertaining to conditions of employment of the Employees in the Bargaining Unit throughout the life of this Labor Agreement. Such issues should generally be raised first at the institutional level with the Warden. If the issue cannot be resolved, the Association should contact the Zone Director

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Missouri Department of Corrections  
2729 Plaza Drive  
P.O. Box 236  
Jefferson City, Missouri 65102

Office of the Inspector General  
Compliance Unit

# Memorandum

DATE: March 10, 2009

TO: Department Policy and Procedure Manual Holders

FROM: Bonita G. Morrow, Compliance Unit Administrator

SUBJECT: D2-8.4 Compensatory Time

The above referenced procedure has been revised and is scheduled to go into effect on March 11, 2009. Changes are as follows:

III H.2 a.(1) New

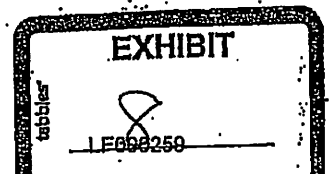
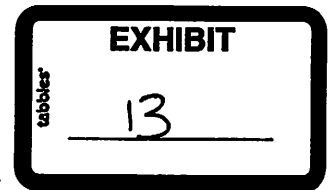
III.H 2 a (1)(a) and (b): Re-lettered

III.H.2.b. Added "however III.H 2.a. is also applicable to state compensatory time usage"

III.H 2.c Deleted "state compensatory time"

Please review this procedure and place appropriately in your manual

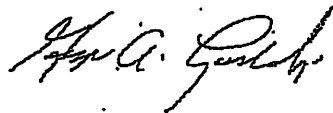
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 MISSOURI DEPARTMENT OF CORRECTIONS  
 \*\* DEPARTMENT MANUAL \*\*  
 \*\*\*\*\*

D2-8.4 Compensatory Time



George A. Lombardi, Department Director March 11, 2009  
 Effective Date  
 \*\*\*\*\*

- I Purpose: The purpose of this procedure is to ensure departmental compliance with Federal Fair Labor Standards Act rules and state merit guidelines.
- A AUTHORITY: Fair Labor Standards Act 1938; 29 U.S.C. 201, et seq.; Public Law 99-150 (1985); Section 217.040 RSMo; Section 105.935 RSMo.
- B APPLICABILITY: This procedure applies to all employees of the department.

II: DEFINITIONS:

- A Chief Administrative Officer: The chief administrative officer is the highest ranking individual at the worksite as designated below Exception: Staff at a worksite who do not report to the worksite chief administrative officer will be accountable to the deputy/assistant division directors/central office section heads who are in their chain of command
  - 1 Director's Office:
    - a. Deputy Department Director
  - 2. Department Sections in the Director's Office:
    - a Deputy Department Director
    - b Central Office Section Heads
  - 3. Division of Probation and Parole:
    - a. Division Director
    - b. Chief State Supervisor
    - c. Deputy Division Director
    - d. Field Service Administrators
    - e. Superintendents
    - f. Regional Administrators
    - g. District Administrators
  - 4. Division of Adult Institutions:
    - a. Division Director

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- b. Deputy Division Directors
  - c. Assistant to Division Director
  - d. Wardens
5. Division of Offender Rehabilitative Services:
- a. Division Director
  - b. Assistant Division Directors
  - c. Wardens
  - d. Central Office Section Heads
6. Division of Human Services:
- a. Division Director
  - b. Central Office Section Heads
- B. Compensatory Time: Federal, state and holiday balances that may be paid at specific times or may be used, with approval, as paid time off
- C. Compensatory Time Notification Schedule: A seniority based list of custody staff developed by the institution. This list is used as a rotating system to assign overtime
- D. Federal Overtime: Federal overtime hours calculated at time and one-half when a code 2 employee physically works in excess of 40 hours during a standard work week.
- E. Flex Work Schedule: An approved schedule which allows the employee to work 40 hours per week by varying from a standard work schedule.
- F. Holiday: An 8 hour period of leave which is granted to all state employees as covered by statute or declared by the Governor of the State of Missouri or the President of the United States for days which are proclaimed holidays.
- G. Holiday lime: Hours calculated at straight time when:
- 1. A code 1 or 2 employee physically works 8 hours or less on a designated holiday, or when the holiday is a scheduled regular day off
- H. Individual Work Schedule: The hours assigned for a specific employee to work within a 7 day standard work week.
- I. Official Domicile: The actual work location of an employee that best serves the interests of the department and not for convenience or benefit of the employee.
- J. On-Call: An employee is on-call when she/he has been completely relieved from duty and has been required to be available by phone so that, if needed, she/he may be required to report to work.
- K. Overtime Codes:
- 1. Overtime code 0 employees (Fair Labor Standards Act

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Exempt) are not covered by the state or federal overtime provisions.

2. Overtime code 1 employee (Fair Labor Standards Act Exempt) are not covered by the federal overtime provisions, but are eligible for state compensatory time.

3. Overtime code 2 employees (Fair Labor Standards Act Nonexempt) are employees whose wages and hours are regulated by Fair Labor Standards Act and state guidelines

L. Staff: Any person who is:

1. an employee - employed by the department on a classified or unclassified basis (permanent, temporary, part-time, hourly, per diem) and are paid by the Statewide Advantage for Missouri (SAM) Human Resources payroll system;
2. contracted to perform services within a department facility (i.e., medical services, mental health services, education services, substance abuse services, etc.) and has been issued a permanent department identification card;
3. a volunteer in corrections;
4. a student intern;
5. issued a permanent department identification card (i.e. information systems) and as outlined in D2-14.1 Staff Identification; or
6. issued a special access card as outlined in D2-14.1 Staff Identification.

M Standard Work Week: Time frame established by the department for calculation of overtime (Sunday 12:00 a.m. through Saturday 11:59 p.m.)

N State Compensatory Time: Hours calculated at straight time when:

1. A code 1 employee works in excess of an assigned daily shift or physically works over 40 hours in a standard work week.
2. A code 2 employee works in excess of an assigned daily shift, but has not physically worked in excess of 40 hours during a standard work week.

O. Work Time: For the purpose of overtime computation: work time for code 1 and code 2 employees will include the following:

1. A code 2 employee works beyond scheduled work hours either at the worksite or home, with or without knowledge of the supervisor.

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- 2. A code 1 employee not receiving prior approval for any work time beyond her/his shift will not be compensated for that time.
- 3. Time spent at training, conferences, award ceremonies, lectures, etc., if attendance is required/requested by the department.
- 4. Time spent in depositions, interviews, testifying in court; personnel advisory board hearings, investigations, work related subpoenas, etc. when related to department employment but not if the employee is a plaintiff or appellant.
- 5. Attendance by e-squad members, c-star, honor guard or color guard employees at activities authorized by the department.
- 6. Tuberculosis testing as provided for in 02-7.8 Tuberculosis Testing for Employees
- 7. Travel Time:
  - a. Travel as part of principal work activity: If an employee is required to report to another worksite at the end of the regular work shift; then travel to that site, time worked and return travel to the official domicile is work time
  - b. Travel away from official domicile: When an employee departs from her/his residence enroute to a work activity located away from her/his official domicile, the travel time creditable will be the amount of time required to travel from the official domicile to the worksite or from the employee's residence to the worksite whichever takes the least amount of time.
  - c. The same will apply when an employee is returning from a worksite located away from her/his official domicile
- 8. Any work-related telephone calls received or made.
- P. Worksite: Any location where an employee is conducting state business.

III PROCEDURES:

A. General Information:

- 1. All overtime worked must receive prior approval of the supervisor.
  - a. Employees who claim overtime not previously approved may be subject to disciplinary action.

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**D2-8.4 Compensatory Time**

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- \*\*\*\*\*
2. The ability to work beyond a normal scheduled shift, or more than 40 hours in a standard work week, is an essential function of all custody classifications.
  3. When requested by their supervisor, employees are required to work beyond a normal scheduled shift and work more than 40 hours in a standard work week.
  4. Employees refusing to work may be subject to disciplinary action.
  5. The chief administrative officer/designee may require an employee to work beyond her/his 40 hour standard work week on an as needed basis
  6. All time worked will be rounded to the nearest quarter hour for reporting and compensation purposes
  7. The worksite chief administrative officer/designee shall ensure that a compensatory time notification system is developed and that employees are instructed on how this system works.
  8. Any employee entitled to workers' compensation may elect to use compensatory time in lieu of sick leave, annual leave, or leave without pay in accordance with D2 15 5 Employee Injury/Workers' Compensation.
  9. An employee may apply to use compensatory time in lieu of sick leave in accordance with D2-8.3 Sick Leave
  10. Time employees spend in on-call status will not be considered work time.
  11. An employee who is called to the worksite outside of normal work hours will receive credit for a full 2 hours, if sent home within the 2 hour time frame.
    - a. Time and one-half overtime credit will be calculated only for hours physically worked as defined for an overtime code 2 employee.
  12. If a shift or regular day off change occurs, the supervisor will ensure an employee works 40 hours during the standard work week
  13. Any work-related telephone calls received or made will be considered work time for code 1 and code 2 employees
    - a. Time spent on these work-related telephone calls should be documented by the duty officer/on-call staff member and reported on the Application for Leave/Overtime form (Attachment A) for compensation.
    - b. Time will be rounded to the nearest quarter hour for reporting and compensation purposes.
      - (1) For example, 0 to 7 minutes and 29 seconds

**D2-8.4 Compensatory Time**  
**Effective: March 11, 2009**

= 0 for reporting and compensation purposes

(2) Seven and 1/2 minutes to 22 minutes and 29 seconds = 15 minutes for reporting and compensation calculations.

c. The total time spent on all work-related telephone calls for each day should be combined for reporting and compensation calculation purposes.

(1) For example, a code 1 or code 2 duty officer receives:

(A) Three 2 minute work-related phone calls on Saturday. All 3 calls combined equal a total of 6 minutes and would not be eligible for reporting or compensation

(B) Two 4 minute work-related phone calls on Sunday. These 2 calls combined equal 8 minutes, and should be reported and compensation calculated as 15 minutes work time.

**B. Criteria for Reporting Time Worked:**

**1 Overtime Code 2 (Fair Labor Standards Act Nonexempt Employee:**

a. All code 2 employees will accrue overtime for hours physically worked in excess of 40 hours in the standard work week, according to state and federal guidelines

(1) This time shall be calculated at time and one half.

b. Overtime code 2 employees must be compensated for time worked.

(1) If prior approval is not received from the chief administrative officer/designee, the employee may be subject to disciplinary action

c. Employees will complete the Application for Leave/Overtime form for all hours worked beyond their shift or when compensatory time is taken as leave, unless flex time has been approved as defined by D2-8.1 Time and Attendance Reporting and D2-8.11 Work Schedules

d. The supervisor will monitor the work time of the employees under her/his supervision

**2. Overtime Code 1 (Fair Labor Standards Act Exempt Employee:**

## D2-8.4 Compensatory Time

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- .....
- a. An Application for Leave/Overtime form must be completed when an employee works beyond 40 hours in a standard work week.
  - b. Prior approval from the supervisor is necessary for state compensatory time to be credited.
3. Overtime Code 0 (Fair Labor Standards Act Exempt) Employee:
    - a. Code 0 employees will not accrue overtime
  4. Unclassified Employee (Part-time/Full-time):  
Unclassified employees will follow the same overtime criteria, depending upon the overtime code established for each position
    - a. The department human resources director will determine the overtime code for any unclassified position
    - b. Any employee paid on an hourly basis is a nonexempt code 2 employee under the Fair Labor Standards Act.
- C. Application for Leave:
1. At the request of the employee, accumulated compensatory leave will be scheduled and taken following supervisory approval.
    - a. Written requests to use compensatory time will be returned to the employee either approved or disapproved within 14 calendar days.
    - b. If the leave request is denied, the supervisor will indicate in the "Remarks" section of the Application for Leave/Overtime form the reason for the denial or indicate that the leave form should be resubmitted at a closer date to the time off requested.
  2. Compensatory time will be reduced or paid in the following order:
    - a. federal;
    - b. state; and
    - c. holiday.
- D. Compensatory time shall not be charged for leave taken on a holiday; however, when an employee's work schedule is more than 8 hours per day, and the holiday (8 hours) is not worked, the employee, at the discretion of the chief administrative officer/designee, must either:
1. work the additional scheduled hours that day;

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- .....
2. work an alternate schedule in a standard work week to make up for hours over 8;
  3. apply for compensatory time or annual leave to cover the additional hours over 8; or
  4. request Leave without pay.
- E. When an employee transfers from one division to another within the department, any compensatory time balances accrued will be transferred to the receiving division
- F. Any employee who has resigned or whose services have otherwise been terminated shall be reimbursed for her/his compensatory time balance
- G. Daylight Saving Time:
1. To ensure compliance with Fair Labor Standards Act requirements, those employees who are physically at work on the shift when the clocks are set back 1 hour in the fall will, when applicable, be credited with 1 additional hour of time worked
- H. Compensatory Time Control:
1. The chief administrative officer/designee will continuously monitor compensatory time balances in an attempt to keep those balances at reasonable levels
  2. Code 2 employees who work at a correctional center, community release center, or community supervision center:
    - a. In order to manage the accrual of federal overtime or state compensatory time, the chief administrative officer/designee may adjust the work schedule of such an employee during the employee's standard work week
      - (1) Overtime worked and compensatory time used within the same week will be documented via the Application for Leave/Overtime form and entered accordingly into the SAM-II Payroll System.
        - (a) The chief administrative officer should notify the employee about the schedule change at the earliest practical time.
        - (b) No schedule change may be made for the purpose of managing overtime or compensatory time unless the employee is notified 12 hours prior to the start of the affected shift or unless the employee volunteers for the schedule change.
    - b. These employees may use accrued balances of federal



**D2-8.4 Compensatory Time**  
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- .....
- overtime, state compensatory time, or holiday time as compensatory leave when both the employee and supervisor agree on such use, however III.H.2.a. is also applicable to state compensatory time usage.
- c. The chief administrative officer/designee may not require these employees to use federal overtime, or holiday time as compensatory leave.
- d. The chief administrative officer may not require the use of federal overtime balances for an absence covered by the Family and Medical Leave Act.
3. Code 2 employees who do not work at a correctional center, community release center, or community supervision center and all code 1 employees:
- a. In order to manage the accrual of federal overtime, state compensatory time, or holiday time, the chief administrative officer/designee may adjust the work schedule of such an employee during the employee's work week.
- (1) The chief administrative officer should notify the employee about the schedule change at the earliest practical time
- (2) No schedule change may be made for the purpose of managing overtime or compensatory time unless the employee is notified 12 hours before the start of the affected shift or unless the employee volunteers for the schedule change.
- b. The chief administrative officer/designee may require these employees to use accrued balances of federal overtime, state compensatory time, or holiday time as compensatory leave.
- c. The chief administrative officer may not require the use of federal overtime balances for an absence covered by the Family and Medical Leave Act
4. The chief administrative officer/designee will review posts/positions and determine which posts/positions are essential for holidays and ensure only those posts/positions are manned.
5. The chief administrative officer/designee will ensure that when an employee's regular day off falls on a holiday, the employee does not work that day unless necessary.
- I. Payment Provision:
1. A code 2 employee who works at a correctional center, community release center, or community supervision center is eligible for payment of compensatory time as defined below:

**D2-8.4 Compensatory Time**

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- .....
- a. All compensatory time balances will be paid annually unless the employee utilizes the option to retain 80 hours or less by submitting the Application to Pay/Retain Compensatory Balances form (Attachment B) to the worksite human resources office.
  - b. Employees may request, throughout the year, cash payment of combined compensatory balances of 20 hours or more, reflected on the most recent paycheck.
  - c. Once a valid request is submitted on the Application to Pay/Retain Compensatory Balances form to the worksite human resources office payment will be made within the next calendar month.
2. The department, depending upon available funding, will consider compensatory time payouts in the same manner as in III.1.1.a. and b for all other employees with compensatory balances not covered in III.1.1.
    - a. Notification shall be made if funding is not available for staff not covered in III.1.1.
  3. Employees will need to coordinate with their supervisor and the worksite human resources office to keep accurate compensatory time balances.
  4. Federal overtime pay for all code 2 employees regardless of where they are employed:
    - a. An employee shall be credited with compensatory time until that employee has exceeded 240 federal compensatory hours.
    - b. The employee shall be paid on the next pay cycle for hours earned beyond 240
- J. Employee Challenges to Time Computation:
1. Employees may challenge compensatory time leave balances or overtime pay by first contacting the worksite human resources office.
  2. Unresolved disputes may be resolved in accordance with D2-10.1 Employee/Management Grievance.
- K. Record Keeping Requirements:
1. The department shall maintain and preserve for 7 years payroll or other records containing the information and data listed below.
    - a. name:
    - b. social security number:
    - c. home address:

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- d. date of birth (if under 19);
  - e. sex and occupation;
  - f. time of day and date employee's standard work week began;
  - g. regular hourly rate of pay;
  - h. hours worked per day and per week;
  - i. total earnings exclusive of overtime pay;
  - j. total overtime premium earnings;
  - k. total additions or deductions from pay;
  - l. date paid and the pay period covered by payment; and
  - m. retroactive wage payment information, if applicable.
2. After 7 years, records may be destroyed if all state audits have been completed and the department human resource director has given approval.
- a. Documentation may be retained for a longer period of time if there is pending litigation or it is determined to be in the best interest of the department to maintain the documentation longer

IV: ATTACHMENTS:

- A 931-1877 Application for Leave/Overtime
- B 931-4506 Application to Pay/Retain Compensatory Balances

V: REFERENCES:

- A D2-7.8 Tuberculosis Testing for Employees
- B. D2-8.1 Time and Attendance Reporting
- C. D2-8.2 Annual Leave
- D. D2-8.3 Sick Leave
- E. D2-8.6 Administrative Leave
- F D2-8.11 Work Schedule
- G D2-8.13 Family and Medical Leave
- H. D2-15.5 Employee Injury/Workers' Compensation
- I Merit System Pay Plan and Index of Classes

VI: HISTORY:

- A. Original Effective Date: June 24, 1987
- B. Revised Effective Date: June 5, 1989
- C. Revised Effective Date: May 18, 1990
- D. Revised Effective Date: April 15, 1991
- E. Revised Effective Date: January 1, 1995
- F Revised Effective Date: July 1, 1996
- G. Revised Effective Date: January 1, 2006
- H. Revised Effective Date: May 1, 2006

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- I. Revised Effective Date: February 15, 2007
- J. Revised Effective Date: September 2, 2007
- K. Revised Effective Date: April 6, 2008
- L. Revised Effective Date: March 11, 2009

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Department of Corrections  
CO I and CO II FY19-FY14

| Budget Unit | Budget Unit Name                       | Approp | FY09 FTE        |               |                 | FY10 FTE        |               |                 | FY11 FTE        |               |                 | FY12 FTE        |               |                 | FY13 FTE        |               |                 | FY14 FTE        |               |                 |
|-------------|--|--------|-----------------|---------------|-----------------|-----------------|---------------|-----------------|-----------------|---------------|-----------------|-----------------|---------------|-----------------|-----------------|---------------|-----------------|-----------------|---------------|-----------------|
|             |  |        | CO I            | CO II         | Total           | CO I            | CO II         | Total           | CO I            | CO II         | Total           | CO I            | CO II         | Total           | CO I            | CO II         | Total           | CO I            | CO II         | Total           |
| 96499C      | ALGOA CORR CTR                         | 4302   | 176.00          | 22.00         | 198.00          | 178.01          | 22.00         | 200.01          | 174.40          | 21.81         | 196.21          | 178.00          | 22.00         | 200.00          | 177.00          | 24.00         | 201.00          | 178.00          | 24.00         | 202.00          |
| 96549C      | BONNVILLE CORR CTR                     | 5280   | 163.00          | 23.00         | 186.00          | 167.86          | 23.00         | 190.86          | 159.20          | 22.00         | 181.20          | 156.00          | 22.00         | 178.00          | 156.00          | 21.00         | 177.00          | 166.00          | 21.00         | 186.00          |
| 96449C      | CENTRAL MISSOURI CORRECTIONAL CENTER   | 4292   | 0.00            | 0.00          | 0.00            | 9.80            | 0.00          | 9.80            | 9.69            | 0.00          | 9.69            | 10.00           | 0.00          | 10.00           | 10.00           | 0.00          | 10.00           | 0.00            | 0.00          |                 |
| 96539C      | CHILLICOTHE CORR CTR                   | 4276   | 230.89          | 47.00         | 277.89          | 279.00          | 47.00         | 326.00          | 272.00          | 42.51         | 314.51          | 250.00          | 41.00         | 291.00          | 250.00          | 35.00         | 285.00          | 250.00          | 35.00         | 285.00          |
| 96679C      | CROSSROADS CORR CTR                    | 3740   | 232.00          | 34.00         | 266.00          | 229.03          | 34.00         | 263.03          | 231.09          | 33.00         | 264.09          | 231.00          | 32.00         | 263.00          | 230.00          | 31.00         | 261.00          | 230.00          | 31.00         | 261.00          |
| 96419C      | DAI STAFF                              | 4783   | 14.00           | 1.00          | 15.00           | 6.80            | 1.00          | 7.80            | 11.63           | 1.00          | 12.63           | 10.25           | 1.00          | 11.25           | 10.25           | 1.00          | 11.25           | 10.91           | 1.00          | 11.91           |
| 96699C      | EASTERN RCP & DGN CORR CTR             | 0673   | 372.00          | 93.00         | 465.00          | 371.00          | 94.00         | 465.00          | 351.73          | 90.00         | 441.73          | 358.00          | 91.00         | 449.00          | 358.00          | 90.00         | 448.00          | 358.00          | 90.00         | 448.00          |
| 96999C      | FARMINGTON CORR CTR                    | 6284   | 348.00          | 51.00         | 399.00          | 345.76          | 51.00         | 396.76          | 335.60          | 48.11         | 383.71          | 337.00          | 47.00         | 384.00          | 337.00          | 46.00         | 383.00          | 337.00          | 46.00         | 383.00          |
| 96609C      | FULTON RCP & DGN CORR CTR              | 7052   | 261.00          | 26.00         | 287.00          | 262.16          | 24.00         | 286.16          | 256.16          | 23.50         | 279.66          | 263.00          | 24.00         | 287.00          | 263.00          | 30.00         | 293.00          | 263.00          | 30.00         | 293.00          |
| 96439C      | JEFFERSON CITY CORR CTR                | 4250   | 307.72          | 37.00         | 344.72          | 303.41          | 45.00         | 348.41          | 325.28          | 43.00         | 368.28          | 323.00          | 43.00         | 366.00          | 327.00          | 43.00         | 370.00          | 327.00          | 43.00         | 370.00          |
| 96439C      | KANSAS CITY COMM RELEASE CTR           | 4797   | 0.00            | 7.00          | 7.00            | 0.00            | 0.00          | 0.00            | 0.00            | 0.00          | 0.00            | 0.00            | 0.00          | 0.00            | 0.00            | 0.00          | 0.00            | 0.00            | 0.00          | 0.00            |
| 96669C      | MARYVILLE TREATMENT CENTER             | 2639   | 98.00           | 17.00         | 115.00          | 93.00           | 15.00         | 108.00          | 94.30           | 14.00         | 108.30          | 89.00           | 15.00         | 104.00          | 89.00           | 12.00         | 101.00          | 89.00           | 12.00         | 101.00          |
| 96529C      | MISSOURI EASTERN CORR CTR              | 4069   | 199.00          | 18.00         | 217.00          | 189.57          | 18.00         | 207.57          | 196.70          | 17.83         | 214.53          | 203.00          | 18.00         | 221.00          | 203.00          | 24.00         | 227.00          | 203.00          | 24.00         | 227.00          |
| 96489C      | MOBERLY CORR CTR                       | 4300   | 239.00          | 29.00         | 268.00          | 226.33          | 29.00         | 255.33          | 231.20          | 28.46         | 259.66          | 222.00          | 27.00         | 249.00          | 222.00          | 30.00         | 252.00          | 222.00          | 30.00         | 252.00          |
| 96689C      | NORTHEAST CORR CTR                     | 4127   | 321.00          | 48.00         | 369.00          | 320.00          | 48.00         | 368.00          | 319.20          | 43.69         | 362.89          | 323.00          | 43.00         | 366.00          | 323.00          | 43.00         | 366.00          | 323.00          | 43.00         | 366.00          |
| 96469C      | OZARK CORR CTR                         | 4296   | 75.00           | 9.00          | 84.00           | 69.79           | 9.00          | 78.79           | 70.40           | 9.00          | 79.40           | 78.00           | 9.00          | 87.00           | 79.00           | 11.00         | 90.00           | 79.00           | 11.00         | 90.00           |
| 94580C      | POPULATION GROWTH POOL                 | 1053   | 0.00            | 0.00          | 0.00            | 0.00            | 0.00          | 0.00            | 0.00            | 0.00          | 0.00            | 0.00            | 0.00          | 0.00            | 0.00            | 0.00          | 0.00            | 0.00            | 0.00          | 0.00            |
| 96589C      | POTOSI CORR CTR                        | 8115   | 208.00          | 26.00         | 234.00          | 202.11          | 26.00         | 228.11          | 194.98          | 26.00         | 220.98          | 199.00          | 26.00         | 225.00          | 198.00          | 27.00         | 225.00          | 198.00          | 27.00         | 225.00          |
| 96699C      | SOUTH CENTRAL CORR CTR                 | 1973   | 255.00          | 35.00         | 290.00          | 256.00          | 33.00         | 289.00          | 237.30          | 32.57         | 269.87          | 247.00          | 32.00         | 279.00          | 247.00          | 33.00         | 280.00          | 248.00          | 33.00         | 281.00          |
| 96709C      | SOUTH EAST CORR CTR                    | 3078   | 255.00          | 34.00         | 289.00          | 246.00          | 34.00         | 280.00          | 239.30          | 32.66         | 271.96          | 246.00          | 33.00         | 279.00          | 246.00          | 34.00         | 280.00          | 246.00          | 34.00         | 280.00          |
| 96430C      | ST LOUIS COMM RELEASE CTR              | 4795   | 0.00            | 6.00          | 6.00            | 0.00            | 0.00          | 0.00            | 0.00            | 0.00          | 0.00            | 0.00            | 0.00          | 0.00            | 0.00            | 0.00          | 0.00            | 0.00            | 0.00          | 0.00            |
| 96629C      | TIPTON CORR CTR                        | 4298   | 172.00          | 26.00         | 198.00          | 164.64          | 26.00         | 190.64          | 165.30          | 26.00         | 191.30          | 172.00          | 26.00         | 198.00          | 172.00          | 23.00         | 195.00          | 172.00          | 23.00         | 195.00          |
| 96579C      | WESTERN MO CORR CTR                    | 8113   | 283.00          | 42.00         | 325.00          | 263.32          | 42.00         | 305.32          | 277.65          | 38.00         | 315.65          | 285.00          | 38.00         | 323.00          | 285.00          | 39.00         | 324.00          | 285.00          | 39.00         | 324.00          |
| 96699C      | WESTERN RCP & DGN CORR CTR             | 2312   | 306.00          | 43.00         | 349.00          | 305.00          | 41.00         | 346.00          | 299.00          | 39.64         | 338.64          | 299.00          | 40.00         | 339.00          | 298.00          | 40.00         | 338.00          | 298.00          | 40.00         | 338.00          |
| 96499C      | WOMENS EAST RCP & DGN CORR CT          | 4294   | 242.00          | 41.00         | 283.00          | 250.00          | 42.00         | 292.00          | 227.10          | 41.50         | 268.60          | 235.00          | 41.00         | 276.00          | 235.00          | 35.00         | 270.00          | 235.00          | 35.00         | 270.00          |
|             | <b>Total Department CO I and CO II</b> |        | <b>4,757.61</b> | <b>675.00</b> | <b>5,432.61</b> | <b>4,738.44</b> | <b>664.00</b> | <b>5,402.44</b> | <b>4,679.24</b> | <b>634.28</b> | <b>5,313.52</b> | <b>4,715.25</b> | <b>631.00</b> | <b>5,346.25</b> | <b>4,715.25</b> | <b>630.00</b> | <b>5,345.25</b> | <b>4,727.91</b> | <b>631.00</b> | <b>5,358.91</b> |

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# CONFIDENTIAL

## EXECUTIVE STAFF MEETING September 13, 2004

~~Next week's meeting will be on Monday, September 20, 2004 at 10:00 a.m.~~

### PORTAL TO PORTAL - Steve Long & Dwayne Kempker

A discussion was held regarding pre and post shift activity by staff and the Department's compliance with the Fair Labor Standards Act that governs compensatory time. Dwayne Kempker stated current practice requires employees to draw keys, radios, etc. prior to reporting to their assigned post. Dwayne stated our compensatory time procedure specifies that compensatory time will be credited by rounding to the nearest quarter hour. Therefore, an employee working seven minutes or less could not be compensated as their minutes would be rounded down to zero.

**ACTION ITEM:** Joe Eddy will review and submit information for a new decision item showing the cost of changing the work schedule of custody staff, cooks and maintenance staff to eight hours and 15 minutes to cover pre and post shift activity.

### LEGISLATIVE PROPOSALS - Denis Agniel

Denis Agniel recommended that the request for submitting legislative proposals begin earlier next year. Dave Rost stated next year the actual legislative proposal format can hopefully be distributed to each division for use in submitting proposals. However, the format is provided to us only 30 days prior to the submission deadline. Mr. Rost stated the Department's proposals are due next week and draft legislation must be attached to each.

**ACTION ITEM:** Matt Sturm will send out a reminder the first of June, 2005 advising staff to begin preparing legislative proposals.

### MO RE-ENTRY VIDEO - David Rost

David Rost stated requests for copies of the Missouri Re-Entry Video shown at the TPCI Conference in Warrensburg, MO have been received. John Fougere stated additional copies of the video can be made at a very minimal cost.

**ACTION ITEM:** John Fougere will contact Tom Clements and Julie Rollins to discuss how many copies of the video should be made. It was recommended that all worksites be provided a copy of the video to be used as a tool to educate staff in all levels of the organization.



# CONFIDENTIAL

- **Administrative Leave** would be granted in conjunction with a conference if the employee pays his or her own way. If the Department or an association pays expenses then the employee will be on work time.

The policy will be sent to Executive Staff for final approval.

## Update on Pens from Correctional Employees' Week - Vicki

Vicki stated that DOC paid the full amount for the pens in good faith even though there were several defective pens. Approximately 1,400 pens were returned to the company. A letter was sent to the company asking for new pens for all employees. The company responded that they would only send us 2,000 replacement pens. Vicki will be sending the company a letter that we will not do business with them again and also copy OA.

## Pre-employment Drug Testing - Vicki

ACC had an applicant that interviewed for a cook position and the pre-employment drug test showed as diluted. The cook was again on the register and was again interviewed. If an applicant tests positive we do not have to interview again. Vicki stated that Employee Health and Safety is developing a program to determine those that have tested positive in the past. OA is notified to take off of DOC certificates, but not off of the certificate for other departments.

Dave Rost informed Executive Staff that licensed professionals would be allowed to conduct drug tests regardless of gender. DOC Staff conducting drug tests would be required to be same sex collectors. This information will be in the new drug testing policy.

## Budget - Joe

Executive Staff reviewed the draft of the Department's FY06 New Decision Items and made several changes. Director Kampker asked Division Directors to prioritize their new decision items.

**Action Item:** Division Directors will prioritize their new decision items and submit to Joe.

## Portal to Portal (follow-up from last week) - Joe Eddy

Joe determined that the cost of changing the work schedule of custody staff, cooks and maintenance staff to eight hours and 15 minutes to cover pre and post shift activity would be approximately \$7,524,478.

**Action Item:** Executive Staff agreed not to pursue and not to submit as a new decision item.

- 1 • **electronically logging their arrival or departure from the facility by either scanning a Bar Coded or Radio Frequency Identification Card (RFID), and/or manually signing or initialing a paper entry/exit record, and/or submitting to biometric identification such as a finger print or palm scanning instrument;**
- 2 • **passing through security gates/entry - egress points, including passing through a metal detector on arrival;**
- 3 • **presenting themselves before a custody supervisor who communicates to the COI or COIs their daily post/duty assignment;**
- 4 • **picking up or returning equipment such as keys or radios from electronic key boxes or key/radio issue rooms;**
- 5 • **walking to and from the entry/egress points to duty post and possibly waiting in a brief line for a few moments if one has formed for any of the above activities;**
- 6 • **in the case of vehicle patrol officers, inventorying the vehicle patrol's issued weapons, ammunition and equipment prior to and at the end of each shift.**

(i) If yes, state your best estimate of number or percentage of employees so affected over the seven years, varying by job function;

**Response: Most COIs and COIs do arrive or briefly remain on institutional grounds, pre and post shift, and may engage in the activities described in 1. (c).**

(ii) If no, explain why not.

**Response: See Response to (c) above.**





PENGAD 600-631-6989  
PLAINTIFF'S  
EXHIBIT  
33

① Please list:  
passing of pertinent information from one shift  
to another

② physically checking mailboxes either pre or post  
shift - located in admin bldg.