

SERENITY BEHAVIORAL HEALTH SYSTEMS

SUBJECT: FAIR LABOR STANDARDS ACT
POLICY NUMBER: HR-9.00
EFFECTIVE DATE: May 1998
SUPERSEDES: N/A
LAST REVISION DATE: July 2009

POLICY:

It is the policy of Serenity Behavioral Health Systems (SBHS) that employees are covered by the Wage and Hour provisions of the Federal Fair Labor Standards Act (FLSA) unless specifically exempted. The provisions of FLSA include guidance for establishing work periods, payment of minimum wages, hours of work, overtime compensation and required record keeping.

CATEGORIES OF EMPLOYEES:

- I. Employees who are covered by the Wage and Hour provisions of FLSA are considered FLSA non-exempt employees.
- II. FLSA exempt employees are not covered by the provisions of FLSA because their work assignments fall into one of the following categories:
 - A. Executive
 - B. Professional
 - C. Administrative
- III. Designations of exempt or non-exempt status are made by the Human Resource Manager based on criteria established by the Fair Labor Standards Act. Such designations are made on an individual basis and are based on the actual work responsibilities assigned to each employee.

WORK PERIOD:

- I. The standard FLSA work period is a fixed period of seven (7) consecutive calendar days. It does not need to coincide with the calendar week and may begin on any day and at any time.
- II. A work period must be established in writing for every employee (both exempt and non-exempt) and must be on file in an accessible location. The work period must define the time of day and day of the week when the employee's work period begins and ends. (Example: Sunday 12:00 a.m. to Saturday 11:59 p.m., see Attachment V FLSA Classification/Work Week).

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NOTE: Exempt employees are required to have a defined work period in the event that they assume non-exempt duties for a period of time, which may make them eligible for FLSA overtime compensation.

- III. An established work period may be changed if the change is intended to be permanent and not for the purpose of avoiding the accrual of FLSA overtime.
- IV. Employees in the same SBHS programs may have different work periods.

TIME WORKED:

- I. Time worked includes all time non-exempt employees are required to be on duty at prescribed work places, and all time during which non-exempt employees are •suffered or permitted• to work.
 - A. Non-exempt employees must be compensated for all time which supervisors know or have reason to know is being worked, not simply the time which non-exempt employees have been required or asked to work.
 - B. Supervisors are not to ignore work which non-exempt employees do on their own time. Non-exempt employees are required to report all time worked.
 - C. Non-exempt employees who work without authorization are subject to disciplinary action, up to and including separation.
- II. **Meal Periods** – Although meal periods are not required by FLSA, it is the policy of SBHS that meal periods are provided to employees unless there are specific work-related reasons for not allowing meal periods.
 - A. Meal periods are not considered time worked as long as non-exempt employees do not perform any work-related duties for an uninterrupted period of at least 30 minutes.
 - B. Meal periods should be regularly scheduled based on non-exempt employee's work assignments and the needs of the SBHS organizational program.
 - C. Non-exempt employees are not allowed to occupy their workstations during meal period.
- III. **Break Periods** – Short break periods are counted as time worked.
 - A. Break periods are not required by FLSA, however, up to two 15-minute break periods per day may be authorized at the discretion of supervisors, and if work assignments permit.

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- B. Supervisors may schedule break periods if determined appropriate within the SBHS organizational program.
 - C. Since break periods are work time, non-exempt employees are not authorized to lengthen a meal period, report late to work, or leave early by working through a break period.
- IV. **Meetings/Training** – Time spent by non-exempt employees attending meetings, training and similar activities must be counted as time worked, unless all of the following criteria are met:
- A. The attendance is outside of the non-exempt employee’s regular working hours;
 - B. The attendance is voluntary;
 - C. The meeting, training or similar activity is not directly related to the non-exempt employee’s position; and
 - D. The non-exempt employees perform no work related to their position while in attendance.
- V. **On-call** – Non-exempt employees, who are not required to remain on the work premises and are free to engage in personal activities, subject only to the understanding that the supervisor knows how to reach them, are not working while on-call.
- A. All time which non-exempt employees spend actually performing work while on-call is time worked.
 - B. If actual calls are so frequent or the on-call conditions are so restrictive that non-exempt employees are not free to use the intervening periods effectively for personal benefit, the time must be considered time worked.
- VI. **Sleep Time** – Sleep time cannot be excluded from work time of non-exempt employees who are on duty for less than 24 hours. Sleep time may be excluded from the work time of non-exempt employees who are on duty for 24 hours or more, provided that all of the following criteria are met:
- A. There is either an expressed agreement (signed by the non-exempt employee) entered into prior to the effective date of the assignment, or an implied agreement between the SBHS organizational program and the non-exempt employee, as evidenced by written procedures or operational documents that were presented to the non-exempt employee prior to the date of assignment;
 - B. There is a bona fide, regularly scheduled sleep period of not more than eight (8) hours;

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- C. Adequate sleep facilities are provided by the employer;
 - D. The non-exempt employee usually has an opportunity for an uninterrupted night's sleep; and,
 - E. Interruptions are counted as time worked including the entire sleep period if the non-exempt employee does not have an opportunity for a reasonable night's sleep. A reasonable night's sleep has been defined as at least five (5) hours sleep during the scheduled sleep period.
- VII. **Residents** – Non-exempt employees who reside on SBHS premises either permanently or for extended periods are not considered to be working all of the time they are on the premises. The assumption is that such non-exempt employees may engage in personal activities, including: eating, sleeping, entertaining, etc.
- A. As a general rule, non-exempt employees who reside on the premises for 120 hours or more in a workweek fall within this rule. Five (5) consecutive days or nights residence might also qualify.
 - B. Any reasonable agreement between the employers and non-exempt employees as to the amount of time worked is acceptable. It is advisable that these agreements be reasonably detailed and in writing.
- VIII. **Travel** – Normal travel from home to work and return is not work time. This is true whether the non-exempt employee has a fixed work place or works at different locations.
- A. Travel to work assignments at sites within reasonable commuting distance of the non-exempt employees primary work site is considered in the home to work category and is not work time. If, however, a non-exempt employee is required to stop by the primary work site for instructions or to pickup materials, the travel from the primary work site to the work assignment must be counted as time worked.
 - B. Travel between a non-exempt employee's normal work site and another place of assignment, or travel between one assignment and another during the workday, is considered time worked.
 - C. Travel associated with a one-day assignment at a different location must be considered time worked to the extent that the travel exceeds the time spent in the non-exempt employee's normal travel between home and work.
 - D. The FLSA does not require that travel time out-of-town for overnight stay as a passenger outside of normal work hours be counted as time worked. It is the

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policy that SBHS will count bona fide travel time of non-exempt employees, which include the driver and all passengers outside normal work hours as work time.

- E. FLSA exempt employees are not entitled to any FLSA compensation for travel time either outside of, or in addition to, their normal hours of work.

NOTE: FLSA exempt employees may be allowed reasonable travel time if determined appropriate by supervisors.

MANAGEMENT OF WORK HOURS:

- I. Supervisors are responsible for the control of all overtime worked at SBHS and for accurately approving and recording such overtime worked at SBHS.
- II. Non-exempt employees are not allowed to occupy their workstations before their scheduled workday begins, during meal periods, and after their workday ends.
- III. Non-exempt employees are required to accurately sign in and out (recording time to the exact minute) when they arrive and leave their work areas. Non-exempt employees who fail to correctly record actual work time are subject to disciplinary action up to and including separation.
- IV. Exempt employees generally do not complete time sheets to record work time. Since exempt employees are paid on a salary basis, time sheets should not be kept unless they are required in order to comply with programmatic certification requirements.
- V. Time worked by non-exempt employees should be reviewed prior to the end of the work period (when possible) to determine if overtime may occur. Non-exempt employees' work schedule may be adjusted to prevent overtime work.
- VI. If a non-exempt employee arrives after the scheduled reporting time, the supervisor may allow the employee to adjust the work schedule within the work period to make up the time if tardiness seldom occurs and the adjustment is otherwise determined appropriate. If frequent tardiness occurs, the non-exempt employee should not be allowed to make up the time. The non-exempt employee may be placed on unauthorized leave without pay, placed on an attendance plan, and disciplinary action may be taken.
- VII. Non-exempt employees must receive prior written approval using attachment IV that must be signed by the appropriate supervisor to work overtime. In unique or emergency situations, prior approval may not always be possible. Overtime worked in these instances must be reported to the supervisor as soon as possible. Non-exempt employees will be required to explain why overtime was necessary and why pre-

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approval was not possible. Whether authorized or not, all overtime work must be accurately and promptly recorded.

- VIII. Overtime may be granted for emergencies, unanticipated assignments or for special projects which cannot be completed during normal work hours. Overtime should not generally be granted for non-exempt employees when work should be completed during the workday. Supervisors should closely monitor all overtime worked in these instances.
- IX. A statement regarding responsibility and accountability for managing the provisions of FLSA is to be included on Performance Management Forms (PMF) of supervisors who supervise non-exempt employees. These supervisors are to be evaluated on their PMF based on compliance with FLSA.
- X. Non-exempt employees are to be evaluated on their PMF regarding adherence to FLSA requirements.
- XI. A method for monitoring all overtime worked should be put in place in every organizational program.

FLSA COMPENSATORY TIME FOR NONEXEMPT EMPLOYEES:

- I. Overtime worked by nonexempt employees will normally be credited as FLSA compensatory time at a rate of one and one-half hours of compensatory time for each hour of overtime worked. Overtime is credited only when the time an employee is actually at work exceeds forty hours in a defined workweek. Hours worked does not include paid leave or holidays. Overtime for nonexempt employees will be governed by the provisions of the Fair Labor Standards Act. Unscheduled and unauthorized time worked by nonexempt employees will be compensated with overtime or FLSA compensatory time. However, disciplinary action may be taken against a nonexempt employee who works unscheduled or unauthorized hours.
 - A. An employee must be granted FLSA compensatory time off within a reasonable time after making the request if the use of such time off does not unduly disrupt operations.
 - B. Travel time for nonexempt employees will be governed by the provisions of the Fair Labor Standards Act.

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- C. The maximum FLSA compensatory time accrual is 240 hours.
(160 overtime hours worked x 1.5= 240 hours of overtime).
Compensatory time in excess of 240 hours must be paid in cash.
- II. No employee will be paid for overtime without the specific approval of the CEO, except upon separation from the employment with SBHS or upon exceeding the accumulation limits of FLSA compensatory hours.
 - A. When authorized by SBHS, payment for overtime will be made the pay period following the pay period in which the overtime is worked.
- III. All approved overtime shall be reported to the Human Resources Department, during the work period that the overtime was accrued, using Form 364 FLSA Overtime Time Reporting Record. Form 661 Request for Overtime will be forwarded with Form 364. Human Resources will maintain the official records for accrued overtime. No other record is authorized to grant approved use of banked overtime. Human Resources will be responsible for authentication and processing any approved payment for overtime.
- IV. FLSA exempt employees are not entitled to FLSA overtime for time worked over 40 hours during a work period. In unusual circumstances when an exempt employee is required to work an extraordinary number of hours, the manager may grant some time off within a reasonable period of time. Time off for exempt employees, however, should not be on an hour for hour basis. Exempt employees are expected to work the hours necessary to complete the job.

NOTE: In unique or critical circumstances, straight time overtime may be paid to FLSA exempt employees. Specific approval must be received from the Chief Executive Officer prior to payment for overtime work.

Amount of approved overtime worked must be reported to Human Resources for processing of payment. Records of time worked must be maintained by the SBHS programs.

OVERTIME TIME USE AND PAYMENT:

- I. Non-exempt employees must be permitted to use FLSA overtime within a reasonable period after making the request if the granting of such time off does not unduly disrupt the operations of the SBHS organizational program.
- II. Supervisors must require that non-exempt employees take FLSA overtime in lieu of annual leave. Non-exempt employees may request FLSA overtime time in lieu of sick leave or personal leave.

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- III. FLSA overtime cannot be transferred between State agencies (e.g., from SBHS to a Public Health organizational unit). Transfer of FLSA overtime is allowed within the same organizational programs within SBHS. Payment for FLSA overtime must be made by the losing office at the time a non-exempt employee transfers to another state agency.
- IV. Non-Exempt employees must be paid for accrued and unused FLSA overtime at the higher of the following rates:
 - A. The average regular rate received by the non-exempt employee during the last three (3) years of employment; or
 - B. The final regular rate received by the non-exempt employee.
- V. Monetary payment of overtime to non-exempt employees will be made only in unique or critical circumstances and must have prior approval from the Chief Executive Officer.
 - A. Overtime payments are calculated on an hourly rate by adding the non-exempt employee's annual salary and supplemental pay, (i.e., shift differential, county supplement, etc.) and dividing the sum by 2,080 hours.
 - B. Overtime payment is calculated on the rate in effect when the overtime was earned.

CHILD LABOR LAWS:

- I. In accordance with Federal and State Laws, selected applicants under the age of 18 are required to submit an employment certificate to the Humans Resource Manager prior to being employed by SBHS. Employment certificates are issued by County Boards of Education or private schools, whichever is applicable.
- II. The type of work that may be performed, by employees under the age of 18 is restricted by Federal and State Laws. Decisions regarding the provisions of the child labor laws will be made on a case- by- case basis.
- III. SBHS is required to keep written records of the employees work periods.
- IV. Failure to comply with child labor laws may result in the SBHS being fined up to \$10,000.00.
- V. Human Resources must be contacted prior to hiring applicants under the age of 18.

RECORD KEEPING:

- I. All FLSA records must be maintained for three (3) years by the SBHS organizational program unless otherwise directed. These records include but are not limited to:

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- A. Understanding Of FLSA Overtime Form (Attachment II) signed by all new employees;
- B. Sleep time agreements, if applicable;
- C. Work time agreements for residents, if applicable;
- D. Records of each non-exempt employee's daily and weekly time worked signed by the employee and supervisor. (See Attachment III for a sample);
- E. The amount of FLSA overtime accrued by each non-exempt employee during each work period;
- F. The amount of FLSA overtime used in each work period by each non-exempt employee; and,
- G. The amount paid for FLSA overtime and the basis of payment.

REFERENCE:

- I. Fair Labor Standards Act (29 U.S.C. Chapter 8, • 201 *et al.*)
- II. Federal Department of Labor Regulation (29 C.F.R. Part 516 *et al.*)
- III. State Law (O.C.G.A. •39-2-1 *et al.* – Regulation and Employment of Minors)
- IV. State Personnel Board—Rule 16 (Absence From Work)

ATTACHMENTS:

- I. [FLSA](#) Overtime Reporting Record SBHS Form 364
- II. [Understanding](#) Of FLSA Overtime SBHS Form 426
- III. [FLSA](#) Time Record SBHS Form 659
- IV. [Request](#) For Overtime SBHS Form 661

APPROVAL SECTION:

Chief Executive Officer

Date

Committee Chairperson

Date

RESCISSION SECTION:

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Chief Executive Officer

Date

REVIEW DATE:

Committee Chairperson

Date

Committee Chairperson

Date

Committee Chairperson

Date